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THE  
AMERICAN  
ANNUAL REGISTER  
OF  
PUBLIC EVENTS,  
FOR THE  
YEAR 1831—32,  
OR THE  
FIFTY-SEVENTH YEAR OF AMERICAN INDEPENDENCE;  
CONTAINING A VIEW OF THE  
HISTORY, POLITICS, AND LITERATURE  
OF THE YEAR,  
WITH  
BIOGRAPHICAL NOTICES OF EMINENT PERSONS.

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# CONTENTS.

---

## CHAPTER I.

### HISTORY OF THE UNITED STATES.

	Page.
UNITED STATES.—Anti-federal feeling of Administration.—Hostility to Supreme Court of United States.—Laws of Georgia declared void.—Course of President.—Interference in Election.—Views of Opposition.—Rejection of Mr Van Buren.—Nomination as Vice President.—Conduct of Opposition. —Anti-masonic Party.—Conduct of Foreign Affairs.—Cherokee Question.— Difficulties with the Northwestern Indians.—Conduct of the Governor of Illinois.—War with Sacs and Foxes.—Cholera among Troops.—Capture of Black Hawk.—Northeastern boundary.—Negotiation with State of Maine.—Award disapproved of by Senate.	1

## CHAPTER II.

### FOREIGN RELATIONS.

Falkland Islands :—Grant to Governor Vernet.—Capture of American Sealers. —Lexington sent for their Protection.—Settlement at Falkland Islands broken up.—Piratical attack of Malays on Ship Friendship.—Frigate Potomac despatched to punish them.—Town and Forts destroyed.—Claims upon Naples.—An Envoy appointed to demand Satisfaction.—Demonstration of Naval Force.—Claims adjusted by Treaty.—Negotiation with Mexico.— Treaty concerning Limits.—Treaty of Commerce and Navigation.	16
---	----

## CHAPTER III.

### CHOLERA.

Cholera :—Characteristics—Progress—Fatality—Origin—Course in India. —Appears at Bombay—Ceylon—China—Arabia—Persia—Syria—Java— Russia—Poland—Germany—Hamburg—England—Ireland—France— Canada—New York—Philadelphia—Washington—Albany—Buffalo—Cin- cinnati—New Orleans.	21
--	----

## CHAPTER IV.

## NULLIFICATION.

	Page.
Preliminary remarks on Nullification—Nullification by Georgia—Decisions of Supreme Court—Nullification by South Carolina—Bill calling a Convention defeated—Free Trade Convention—Tariff Convention—Proceedings in Congress—In House—In Senate—Bill of Secretary of Treasury—Bill of Committee on Manufactures—Bill passes—Address of the South Carolina Delegation—Convention called in South Carolina—Ordinance nullifying Revenue Laws—Measures adopted to enforce Ordinance—Course of the Federal Government—Proclamation of President.	29

## CHAPTER V.

## PUBLIC LANDS.

Extent of public Lands—How acquired—States formed from Public Territory—Quantity ready for Sale—Costs and Receipts—Mode of Sale—Details of System—Law requiring Cash Payments—How surveyed—Policy of the United States in settling Public Lands—Entire success—Attempt to change that policy—By donations to settlers—By donations to the States—By reducing the Price—Examination of proposed policy—Internal Improvement—An inquiry ordered into the expediency of modifying the System—Mr Clay's Report—Report referred—Report from Committee of public Lands—Debate in Senate—Bill passed by Senate—Proceedings in House—Report referred to Committee on public Lands—Bill postponed.	49
---	----

## CHAPTER VI.

## UNITED STATES BANK.

General Remarks—Currency of new Countries—Continental Money—Power to regulate Currency vested in Congress—History of Banking in the United States—Paper Currency substituted for Metallic—State of Currency during the War of 1812—United States Bank established—Specie payments resumed—Banks in Tennessee and Kentucky—Relief party—Present condition of the United States—Course of Commerce—New States deficient in Capital—Effect of a National Bank—Sound Currency established—Rate of Exchange diminished—Course of Exchange—Constitutionality of National Bank—Hostility to Bank—Errors in Management—Attack upon Bank in Message of 1829—Effect upon Stock—Reports adverse to Message—Attack renewed in 1830 and 1831—Renewal of Charter asked—Bill reported in Senate in 1832—In House—Committee of Inquiry appointed—Discussion upon Inquiry—Reports—Bill taken up in the Senate—Amendments—Bill passed—Taken up in House—Amendments—House passes Bill—Senate refuses to adjourn—Veto of President—Discussion on Veto—Bill rejected.	63
--	----

## CHAPTER VII.

Meeting of Congress.—President's message.—Apportionment bill—48,000 reported as the Ratio—Amended in House—Proceedings in Senate—Amendment of Mr Webster—Report—Carried—Recommitted in House—Report against Amendment—Amendment rejected.—Nomination of Mr Van Buren—Opposition—Rejected—Reasons—Abuses of Government—Wiscasset Collector—Discussion.—Assault on Mr Stanberry.—Trial of Governor Houston—Punishment.—Assault on Mr Arnold.	93
--	----



# CONTENTS.

## CHAPTER VIII.

	Page.
Treasury Report for 1831.—Appropriations—for Pensions—for Support of Government—Expenditures in Executive Department—For surveying Public Lands—Debate on diplomatic Expenses—Debate on Turkish Treaty—Debate in Senate on Expenses of Departments—On diplomatic Expenses—On outfit for Minister to France—Debate in House on do.—Appropriations for Naval Service—For Fortifications—For Army—For Indian Departments—Debate on Expenditures—Debate on Indian Annuities.—Appropriations for Internal Improvement—Debate on Cumberland Road—On Amendments to Bill—On improvement of Navigation of Western Rivers.—Debate in Senate on Bill—Appropriations for Harbors—Debate on Bill retained by President. - - - - -	121

## CHAPTER IX.

### CONTINENTAL EUROPE.

France—State of Parties.—Remodelling of the Chamber of Peers—Banishment of the Bourbons—Condition of the Working Classes—Riots at Lyons—Civil List—Anniversary of the death of Louis XVI—Prosecution of the Peers—Conspiracies—The Cholera—Death of Casimir Périer—Funeral of Lamarque and Riots of June—La Vendée—The Duchess of Berri—The Chambers—Landing at Ancona—Belgian Negotiations—Reduction of the Citadel of Antwerp.—Germany—Hanover—Meeting at Hambach—The Diet.—Greece.—Sovereignty of Otho.—Russia.—Fate of Poland.—Turkey.—Conquest of Syria by Ibrahim Pacha.—Spain—Sickness of the King and its Consequences.—Portugal—Don Pedro's Preparations—Occupation of Oporto—Military Operations. - - - - -	178
---	-----

## CHAPTER X.

### ENGLAND.

Situation of England in 1831—Proclamation against Political Unions—Meeting of Parliament—Reform Bill again introduced—Character of Bill—Adjournment of Parliament—Trial of Bristol Rioters—Parliament re-assembles—Proceedings in Commons on Reform Bill—Bill passes—Proceedings in House of Lords—Second reading of Bill—Ministers defeated in Committee—Ministers resign—Negotiation to form a new Administration—Excitement—Resolutions of Commons—Whig Ministers re-appointed—Opposition to Reform withdrawn—Reform Bill passes—Scotch Reform Bill—Nature of Reform—Bill passes—Irish Reform Bill—Nature of Reform—Bill passes—Nature of Reform—Consequences—Ireland—Opposition to collection of Tithes—Modification of Tithe System proposed—Nature of alteration—Law for collection of Tithes passes—for Composition of Tithes—Prohibiting Party Processions—State of Ireland—Disturbances—West India Colonies—Emancipation—Insurrection at Jamaica—Reform in Finances—Legislation—Dissolution of Parliament. - - - - -	200
---	-----

## LOCAL HISTORY AND DOMESTIC OCCURRENCES.

Maine, - - - - -	229
New Hampshire, - - - - -	236
Massachusetts, - - - - -	238
Rhode Island, - - - - -	242
Connecticut, - - - - -	243

	Page.
Vermont, - - - - -	244
New York, - - - - -	246
New Jersey, - - - - -	249
Pennsylvania, - - - - -	250
Delaware, - - - - -	253
Maryland, - - - - -	254
Virginia, - - - - -	256
North Carolina, - - - - -	259
South Carolina, - - - - -	260
Georgia, - - - - -	265
Alabama, - - - - -	268
Mississippi, - - - - -	270
Louisiana, - - - - -	271
Tennessee, - - - - -	273
Kentucky, - - - - -	274
Ohio, - - - - -	275
Indiana, - - - - -	278
Illinois, - - - - -	278
Missouri, - - - - -	280

## APPENDIX.

Executive Officers, - - - - -	1
Judiciary, - - - - -	1
Diplomatic Corps, - - - - -	1
Members of the Twenty Second Congress, - - - - -	2
Officers of Congress, - - - - -	4
Governors of States and Territories, - - - - -	5
Statement of the Funded Debt of the United States, on the 1st of January, 1832, - - - - -	6
Statement of Revenue received through the Customs, - - - - -	7
Statement of the value and quantities of Merchandize on which duties accrued during the year 1831—(consisting of the differences between articles paying duty imported, and those entitled to draw-back re-exported): and also of the nett revenue which accrued during the same period from duties on merchandize, tonnage, light-money—passports and clearances, - - - - -	7
Operations of the Land Office, - - - - -	13
Expenditures of the United States for 1831, - - - - -	15
Statement of the moneys received into the Treasury from all sources other than Customs and Public Lands, for the year 1831, - - - - -	14
Statement of the Commerce of each State and Territory from 1st October, 1830, to 30th September, 1831, - - - - -	20
American and Foreign Tonnage entered into and departed from each District, from Sept. 30, 1830, to Sept. 30, 1831, - - - - -	21
Statistical View of the Commerce of the United States, exhibiting the value of every description of Imports from, and the value of articles of every description of exports to, each Foreign country; also the Tonnage of American and Foreign vessels arriving from and departing to each Foreign country during the year ending on the 20th day of September, 1831, - - - - -	22
Statement exhibiting a condensed view of the Tonnage of the several Districts of the United States on the last day of December, 1830, - - - - -	24
Comparative View of the Registered, Enrolled, and Licensed Tonnage of the United States, from 1815, to 1830, inclusive, - - - - -	26
Statement of the Number of Vessels, and the amount of Tonnage, which were built, registered, enrolled and licensed, in each State and Territory of the United States, during the year ending on the 31st Dec. 1830, - - - - -	27

# CONTENTS.

vii

	Page.
Statement of the total Number of Vessels, and the Seamen usually employed in navigating the same, which belonged to each State and Territory of the United States, on the 31st Dec. 1830, - -	28
Recapitulation of the Tonnage of the United States for the year 1830, - -	29
Summary Statement of the quantity and value of Goods, Wares, and Merchandise, imported into the United States, in American and Foreign vessels, from the 1st day of October, 1830, to the 30th day of Sept. 1831, - -	31
Summary Statement of Goods, Wares, and Merchandise, of the growth, produce, and manufacture of Foreign Countries, exported; commencing 1st October, 1830, and ending on the 30th September, 1831, - -	37
Summary Statement of the value of the Exports of the growth, produce and manufacture of the United States during the year ending on the 30th day of September, 1831, - - - - -	41

## PUBLIC DOCUMENTS.

### I. DOMESTIC.

Message from the President of the United States, to the 22d Congress, 1st Session, - - - - -	45
Message from President of the United States, returning the Bank Bill, with his objections, &c, - - - - -	60
Treaty of Amity, Commerce and Navigation, between the United States of America and the United Mexican States, - - - - -	76
Proclamation by the President of the United States of America, - - - - -	88
Treaty with the Ottoman Porte.—A Proclamation by the President of the United States of America, - - - - -	91
Articles of a Treaty made at the City of Washington between Lewis Cass, thereto specially authorized by the President of the United States, and the Creek Tribe of Indians, - - - - -	94
Correspondence relating to the Negotiation of the Treaty with the Sublime Porte, &c, &c, - - - - -	97
Correspondence relating to the Treaty between the United States and Denmark, - - - - -	214
Correspondence relating to the Arrangement of the Trade between the United States and the British Colonies, - - - - -	262

### II. FOREIGN.

Great Britain :—Speech of the King to the Imperial Parliament, on the 6th December, 1831, - - - - -	292
Proclamation for the Suppression of Political Unions, - - - - -	294
Legislature of the Bahamas :—Speech of the Governor to the Legislature, - - - - -	295
Lower Canada :—Copy of a despatch received from Viscount Goderich, his Majesty's Secretary for the Colonies, by Lord Aylmer, and by him communicated to the House of Assembly of Lower Canada, June 16, 1831, - - - - -	296
France :—Speech of the King of the French, - - - - -	307
Belgium :—Regent's Speech to the Belgian Congress, - - - - -	310
Germany :—Public Protocol of the twenty-second Sitting of the Germanic Confederation, - - - - -	315
Russia and Poland :—Proclamation of the Emperor of Russia, - - - - -	317
Copy of the Convention between France and England, - - - - -	321
Constitution of Poland, - - - - -	323
New Danish Constitution, - - - - -	325

ACTS OF THE TWENTY-SECOND CONGRESS, FIRST SESSION, - - - - -	329
--	-----

## TRIALS AND LEGAL DECISIONS.

	Page.
Asa Green, Plaintiff in Error, vs. the Lessee of Henry Neal, Defendant in Error, -	359
The State of New Jersey vs. the People of the State of New York, -	363
The Cherokee Case, -	364
State of Georgia vs. Samuel A. Worcester, Elizur Butler, and others, -	365
The State, vs. B. F. Thompson and others, -	366
Samuel A. Worcester, vs. the State of Georgia, -	367

## BIOGRAPHICAL NOTICES OF EMINENT PERSONS

## DECEASED WITHIN THE PERIOD.

John Trumbull, -	381
Hon. Oliver Peabody, -	385
Col. Richard Varick, -	386
Gen. William Barton, -	387
Stephen Girard, -	387
Col. Robert Troup, -	389
Col. Robert Campbell, -	390
Rev. George Crabbe, -	390
J. W. Von Goethé, -	392
M. Champollion, -	394
Casimir Perier, -	395
Nathaniel Rochester, -	396
James Mackintosh, -	398
Gen. Thomas Sumpter, -	402
Samuel Ward, -	405

# AMERICAN ANNUAL REGISTER,

FOR

THE YEARS 1831 — 1832.

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## HISTORY OF THE UNITED STATES.

### CHAPTER I.

*Anti-federal feeling of Administration.—Hostility to Supreme Court of United States.—Laws of Georgia declared void.—Course of President.—Interference in Election.—Views of Opposition. Rejection of Mr Van Buren.—Nomination as Vice President.—Conduct of Opposition.—Anti-masonic Party.—Conduct of Foreign Affairs.—Cherokee Question.—Difficulties with the Northwestern Indians.—Conduct of the Governor of Illinois.—War with Sacs and Foxes.—Cholera among Troops.—Capture of Black Hawk.—Northeastern boundary.—Negotiation with State of Maine.—Award disapproved of by Senate.*

THE dissolution of the federal cabinet in the third year of General Jackson's term, took place at a time when the public mind had begun to entertain a more definite opinion as to his views of national policy, than it was able to form during the first year of his administration. Time, the great explainer of mysteries, had partially removed the veil, which was drawn over his views during the Presidential canvass, and the nation was not compelled to deduce its conclusions from oracular re-

marks on disputed questions of domestic policy designedly left ambiguous; but was furnished with a safer criterion in the action of the executive Government, upon the great national interests, which were brought under its cognizance.

At the commencement of his career, the executive appeared to have adopted the idea, that having been elected upon the principle of reform, no sounder position could be taken, than that of opposition to the characteristic po-



litical measures of his predecessor. During the contest, those measures had been denounced as inexpedient and unconstitutional; and a decent regard for consistency seemed to prescribe a temporary deviation at least from the policy, which had been so unsparingly condemned.

The efforts of the executive, consequently, were at first directed to establish some distinction between the policy of the preceding administration and that which had been created with the view of effecting a reform.

It was soon discovered, that not enough could be done in diminishing the number of offices, or the expenses of the Government, to gratify the public expectation; which had been raised by the violence of the party press to an unreasonable height; nor would a reform in these respects have satisfied those, who had been most instrumental in effecting the change. The public men from the South, [who were the leaders of the party, that had succeeded in electing General Jackson,] had long entertained a settled hostility to the policy, which had been adopted by the federal government, after the experience of the war with Great Britain, and which was so steadily pursued during the administrations of Mr Monroe and Mr Adams. Their influence was accordingly exerted to effect a change in the settled policy of the country, and to bring the government back to what was denominated the doctrines of the Jeffersonian School.

In reviewing the history of the two administrations immediately

preceding the present, it was impossible not to perceive, that the action of the federal government had been extended to many new interests, which were from time to time recommended to its attention, as the country advanced in wealth and population.

A plan of fortifying the coast had been adopted upon the recommendation of scientific engineers; and measures had been taken to gradually create a navy and provide the means of increasing it according to the wants of the country. The currency was restored to its former state of soundness by the agency of the United States Bank, and the public credit elevated by a wise financial policy. A system of internal improvement was adopted with the view of developing the resources of the country, and facilitating the intercourse between the different states; and measures were taken to improve the manufacturing skill of the nation by legislative protection of domestic industry. The supremacy of the federal government within its constitutional limits was maintained by judicial decisions, conceived in wisdom and enforced with vigor; and by the mode of disposing of the public domain, a strong motive in favor of union was addressed to the pecuniary interests of the several states.

As this policy had a tendency to attach the people to the general government by a conviction of its benefits, it was denounced by the anti-federal statesmen as tending towards consolidation, and strenuous efforts were made to place the new administration

in opposition to its leading measures.

After some time this hostility began to manifest itself, but rather through the prominent friends of the administration in Congress than by any unequivocal steps on the part of the executive. The discordant materials of which the administration party was composed caused no small embarrassment in adopting any decided course. While the southern members almost universally espoused the anti-federal doctrines, the friends of the President in the west and in Pennsylvania, were no less decidedly in favor of internal improvement and domestic manufactures; and his partizans in New York were wavering between a desire to retain the confidence of their constituents at home and to propitiate the anti-federalists of the south by yielding to their views.

In this state of affairs the President could not adopt any definite plan of policy, without hazarding the loss of one of the two sections into which his party was divided. The alternative was thus presented to him of choosing between them, and placing his administration before the country simply upon its merits, or of endeavoring to keep together partizans of such conflicting views by a temporising policy.

At the commencement of his administration, his declaration of an intention to confine the action of the federal government to the objects pointed out in the constitution, although ambiguous, was deemed an evidence of a bias in favor of the anti-federal doctrines,

and his rejection of the Maysville and Lexington road bill afforded an additional indication of the same character.

The system of gradually fortifying the coast, and of making surveys pursuant to the act of 1824, was continued as before; and the sanction given by the President to the various appropriations for internal improvements made during the second session of the twenty-first Congress showed, that in his rejection of other bills for that purpose, he was governed by no constitutional principle, but rather by his own ideas of expediency. Still his unwillingness to prosecute the internal improvement of the country upon an enlarged scale, checked the action of Congress, and his veto was hailed with great exultation in the southern section of the union.

The decided opinion expressed in his message at the opening of the second session, in favor of the power of Congress to protect domestic industry was received in the same quarter with less favor; but this again was qualified by a recommendation to reduce those duties, which were regarded as oppressive in the Southern States. On this point, however, there was much difference of opinion among the friends of the administration, and the whole subject was properly left to the wisdom of Congress, with a recommendation of harmony and good feeling. The unreserved expression of his hostility to the United States Bank, furnished a more decided proof of his anti-federal bias; and the doctrines advanced in his message rejecting the bill for the rechar-

tering that institution, were justly looked upon, as evincing his determination to enforce those views with the whole influence of the Government. In no instance however did this anti-federal feeling manifest itself, in a mode more calculated to excite apprehensions as to the stability of the political institutions of the country, than in the course adopted in reference to the controversy between the State of Georgia and the Cherokee Indians. With the view of depriving that tribe of the countenance and advice of the missionaries, a law was enacted by the Georgia legislature, requiring all white persons residing in the Indian country, to take an oath of allegiance to the State; and two missionaries being arrested under that law, they were discharged on the ground, that they were residing there and acting as agents of the federal Government, in disbursing the fund annually provided by Congress for the civilization of the Aborigines. A disavowal having been obtained from the government at Washington of their agency, they were again arrested under the law; and the fact of residence being proved, notwithstanding the unconstitutionality of the State law was pleaded, they were sentenced to four years confinement at hard labor in the Penitentiary of Georgia. Steps were immediately taken to bring this decision of the State Court in review before the Supreme Court of the United States; and after a full consideration of the subject, the Court decided, that the law of Georgia was contrary to the constitution,

treaties and laws of the United States, and consequently void; and a mandate was issued to the State Court reversing its judgment and ordering the missionaries to be discharged. Upon the delivery of this mandate to the State Court, it refused to obey it; and shortly after the decision, an article appeared in the semi-official Journal of the Government denying the soundness of the decision of the Supreme Court. The representatives of Georgia at Washington openly asserted, that the President would not enforce the judgment; and the opinion previously expressed by him in favor of the course adopted by that State, and the support afforded to her measures against the Cherokees, afforded too much ground for that assertion.

The right of the federal judiciary to maintain the supremacy of the federal constitution, laws and treaties, was thus openly brought in question; and recurring to the attempt to repeal the 25th section of the Judiciary act at the last Congress, many began to believe that the Government had fallen into the hands of a party, that was hostile to its powers and willing to curtail them so far, as to render it unable to defend itself from the encroachments of the States. Although that attempt was promptly defeated, and that by so triumphant a majority as to demonstrate the futility of the expectations of those, who sought to make the government depend upon the states; still the fact that the measure was brought forward by the Judiciary Committee, and sustained by those who were



generally deemed to represent the views of the administration in Congress, induced a common belief that it formed part of a system of policy, which aimed to curtail the prerogatives and diminish the powers of the federal government. As this policy was regarded with great distrust in all quarters, except at the South, and by a few politicians in the eastern and middle States, it was not explicitly avowed as adopted by the government. On the contrary, efforts were made to exonerate the President from the charge, that he was hostile to the supremacy of the federal judiciary, and his friends insisted, that he could not be called upon to enforce the decisions of the supreme court, until the powers confided to that tribunal should prove to be inadequate to that end. However undeniable this might be, it was too true that this collision between the Supreme Court and the State Government, had been in a great measure occasioned by his refusal to enforce certain provisions of the Indian intercourse act, directing the President of the United States to repel all encroachments upon the territory secured to the tribes by treaty. With the view of rescuing the government from the hands of those, who took this narrow view of its duties and its powers, a strong opposition was organized, under the denomination of National Republicans, and the various topics calculated to render the President unpopular were urged with all the skill and force that political ambition and party animosity could inspire.

The friends of the administration on their part were not idle, and in the contest which ensued, they were aided by all the influence and patronage of the federal Government. At no time since the commencement of our history had the executive and the public functionaries dependent upon him taken so direct a part in the elections; and the consequence of this interference was, to cause the contest to degenerate into a personal struggle to a degree, that had not been before witnessed in the United States. The personal qualities of the President and his military services were relied upon in those States, where his course of policy was deemed counter to public sentiment; and his anti-federal construction of the constitution, and the inconsistency between his professions and his course after his election, were overlooked in consideration of his success in the war with England and her Indian Allies. The mode in which the election was conducted increased the tendency, already sufficiently great on the part of the President, to shape the public policy according to his personal feelings and prejudices. Like all men of strong character his passions partook of the strength of his will; and being in a sphere comparatively new, he was less under the influence of his own judgment, than of those to whose better information he was accustomed to defer. With the best intentions, he was, therefore very liable to err; and in his hostility to the views of his political opponents, he was thus led to espouse

doctrines not only contrary to his previous opinions, but entirely incompatible with the existence of the Government of which he was temporarily the head. His personal opposition to Mr Clay made him an opponent of the American System; and the decided stand he took against the Cherokees in their controversy with Georgia, finally led him to question the authority of the very tribunal, expressly created to determine all controversies arising under the constitution of the United States.

Nor was this the only evil arising from the personal character, which the contest assumed. It stimulated zealous partisans to lose sight of their duty as citizens, and during the first session of the twentysecond Congress some of his indiscreet friends ventured to assail members of Congress, for the part they took on the floor of the house, in urging an inquiry into alleged abuses of the Government. Such a high handed attempt to overawe the national Legislature in the discharge of one of its most important duties excited great indignation among the opposition, and the President was charged with seeking to arrogate to himself all the powers of the government. The frequent use of the veto was imputed to him, as an additional proof of his disposition to encroach upon the powers of the coördinate branches of the government; and the avowal of his determination to construe the constitution for himself, in questions settled both by judicial decisions and by the practice of the government, evinced more of the

decision and character of a soldier, than that regard for the permanency of our political institutions, which should have been manifested by the chief magistrate of a republic. Upon these grounds the National Republicans put in nomination as a candidate in opposition to General Jackson, Henry Clay of Kentucky, and his election was urged as the only means of saving the institutions of the country from destruction.

Mr Clay was a warm friend of domestic manufactures and of internal improvements. He was indeed considered as the father of the American System, of which those measures formed so prominent a part; and a long course of service in Congress had shewn to him the necessity of maintaining the constitutional authority of the federal judiciary. As a candidate for the Vice Presidency, the same party nominated John Sergeant of Pennsylvania, a jurist and statesman of high and deserved reputation.

On the side of the administration Martin Van Buren of New York was nominated as a candidate for the Vice Presidency. Upon retiring from the State Department he had been appointed by the President Minister to the Court of St James, and when, according to the constitution, his nomination was submitted to the Senate for confirmation, the National Republicans in that body opposed it on the ground, that in his instructions given while Secretary of State, in relation to the Colonial trade, he had so far lost sight of the dignity of his country, as to claim as a sort of merit in the eyes of

the British government, that the party now in power had not sustained the claims urged by the government of the United States, when Mr Adams was at the head of affairs. For this reason they voted against the appointment, and being joined by a few Senators, who were dissatisfied with the conduct of Mr Van Buren while in the Department of State, the nomination was rejected by the casting vote of the Vice President. As the minister had already departed on his mission, his recall in this manner produced a strong sensation throughout the country. It was the first instance, in which the representative of the United States at a foreign court had been recalled, in consequence of the refusal of the senate to concur in the selection of the President. The partizans of the President insisted, that he was personally dishonored by the rejection of his minister; and that it was incumbent on his friends to convince the world, that he had not lost the confidence of his countrymen by electing Mr Van Buren to preside over the body, which had declared that he was unworthy to represent the country at the British Court.

This mode of reasoning prevailed, and notwithstanding the efforts of the delegates of states where Mr Van Buren was unpopular, he received the nomination of the convention appointed to nominate a candidate, to be supported by the administration party for the Vice Presidency.

This nomination entirely alienated the friends of Mr Calhoun from the administration: and al-

though the ultra anti-federal doctrines espoused by his adherents, prevented them from joining the opposition in their support of Mr Clay; it was soon understood, that the President had lost their confidence and would not receive their suffrages. The character of the contest however effectually precluded them from openly lending their aid to overthrow the administration. It was a contest in relation to the powers of the federal government, although from the cautious and ambiguous manner in which the opinions of the executive were promulgated, the true nature of the question at issue was not fully understood by the people in certain portions of the Union. Even where it was so understood, no deep universal conviction prevailed, that the result of this election would be decisive as to the powers of the federal government. Many hoped from the strong personal enmity manifested towards Mr Calhoun, that the President would finally be brought to oppose doctrines, of which that gentleman was now considered the chief advocate; and the experience of a few years had furnished ample proof, that he would not be deterred from taking that step by any apprehension of a charge of inconsistency. The further development of the views of the dominant party in South Carolina too, now began to excite great fears of a premeditated design to dissolve the union; and it was supposed, that while on one hand the inclination towards anti-federal doctrines previously shewn by the President, would prevent



the disaffection from extending itself to the other southern states ; on the other, that the energetic manner in which he executed his decisions would completely put down the dangerous heresy of nullification, and in the end strengthen the general government.

The apprehension that his reelection would tend to unsettle the government, consequently did not operate upon the mass of the Electors to the same extent as upon the leaders of the opposition.

They were governed by the more obvious considerations growing out of the pressing question of nullification on the part of South Carolina ; and as he had declared himself opposed to the pretensions of that State, the distant dangers to be apprehended, from the effect of the principles advocated by the President in the Georgia controversy were by many disregarded. Even among the mass of those, who professed to be governed by a desire to preserve the constitution from destruction, there was a want of that untiring energy, and self-devotion, which flow from a deep conviction of the importance of a cause. An unwillingness to postpone plans of personal advancement, or to sacrifice individual prejudices and private views to the good of the cause, too much characterised the opposition to the administration. Its members professing great independence of character were too apt to forget, that where combined effort is required, individual will must give way, and the plans of the party were constantly thwart-

ed by the refusal of its members to unite upon a single candidate.

This intractability, which was so often witnessed in the local divisions of the opposition, was manifested in a most striking manner at this election in placing two candidates for the chief magistracy before the nation.

The anti-masons professed an equal dislike with the National Republicans to the principles and policy of the administration, and both parties declared themselves ready to combine to defeat the election of General Jackson. Neither however were willing to yield to what they called the dictation of the other. The former declared that they could not, under any circumstances, bestow their suffrages upon a high mason, who refused to renounce the order, and they accordingly nominated William Wirt of Maryland as their candidate for the Presidency, and Amos Ellmaker of Pennsylvania, for the Vice Presidency. The latter on their part professed great confidence in the integrity and qualifications of Mr Wirt ; but insisted that they could not with honor sacrifice Mr Clay to what they denominated an unreasonable prejudice, nor could they consistently with their self-respect give up the candidate of the great majority of the opposition to quiet the scruples, whether real or affected, of a small minority of their party.

While the two divisions of the opposition were prevented from coalescing, by what they regarded as insuperable obstacles ; the friends of the administration united in its support with a zeal and

earnestness, which both deserved and ensured success. Local divisions were done away; personal difficulties adjusted, and private quarrels forgotten, in the general desire to promote the triumph of the party. The people at large, witnessing on one side so much party devotion, and on the other so much of the opposite quality, were led to regard the cause of the administration with more favor, than it would have obtained upon a mere view of its principles and policy.

They could not be made to believe, that men who seriously supposed the constitution would be subverted by the re-election of General Jackson, could be prevented from combining to defeat him by such considerations as kept the national republicans and anti-masons apart. They knew, that minor interests and petty feelings are laid aside in moments of great excitement, and they justly concluded, that those who acted so much unlike men, deeply and powerfully impressed with the importance of the crisis, could not fully believe themselves, in the reality of the dangers which they had described.

Nor were the adherents of the administration deficient in topics well calculated to affect the public mind. In addition to the high personal popularity of the President, his administration had been eminently successful in the management of our foreign affairs. With the exception of the adjustment of the controversy in relation to the colonial trade, (which was effected at the expense both of the dignity and interests of the

country,) the foreign relations of the United States had been managed with ability and success. The claims of American merchants for confiscations by the imperial government of France were prosecuted with great diligence, and finally adjusted for the sum of 25,000,000 of francs to be paid by the French government for distribution among the claimants. A treaty was concluded with Denmark, by which she agreed to pay the sum of \$650,000 for depredations committed by her privateers; and even the claims on Naples, which were regarded almost as hopeless, were acknowledged, and the sum of \$1,720,000 stipulated to be paid as an indemnity. The prompt chastisement of the Malays for a piratical attack upon an American merchant vessel was cited as an instance of the vigor and decision of the President; and the satisfactory adjustment of the terms of a treaty with Mexico was urged as equally illustrative of his ability at negotiation.

Even the treaty formed with Turkey, although the preliminary difficulties were surmounted, and the terms arranged by his predecessor, from its being first communicated to the public in the second year of the administration of General Jackson, was deemed an additional proof of his diplomatic skill and sagacity. Nor was the nation less prosperous at home than the government fortunate abroad. Abundant harvests rewarded the labor of the farmer and imparted activity to commerce; while the rapid extension of the manufacturing in-

terest gave employment to thousands, whose industry would have been unprofitably devoted to agriculture, and furnished a home market for the productions of the soil. The policy pursued by the preceding administration was now beginning to produce the effects anticipated. To that administration, impartial justice would have awarded the merit due to the wisdom which adopted the policy. But in the heat and turmoil of party dissensions, her voice is seldom heard, and those who had taken their side as partizans insisting, that our domestic prosperity was owing to the policy of the administration; the mass who seldom look beyond the most obvious causes, willingly assented to a proposition, which relieved them from the labor of investigation and reflection.

Although the course of the administration was sustained in this manner, by the popular voice, those who administered the government did not find their task unattended with difficulties.

The question between the Cherokees and the State of Georgia was fast approaching to a final decision before the Supreme Court of the United States: and although no doubt could be entertained as to the judgment of that tribunal; strong doubts were felt concerning the willingness of the executive to enforce its decision: and an absolute certainty prevailed, that a refusal to enforce it, would deprive the federal government of all pretence to require South Carolina to submit her claims to annul the revenue laws, to the arbitrament of the same tribunal. Notwithstanding the ad-

ministration, in its desire to subserve the views of Georgia, had weakened the constitutional authority of the federal government and exposed it to the reproaches, of the civilized world for its disregard of treaty stipulations; the state authorities did not cease to complain of the delay in the execution of the compact of 1802, and prosecuted their designs to appropriate the Cherokee lands to the use of the land speculators of Georgia without regard to the rights of the aborigines, or the requirements of humanity.

The unhappy effects of this departure in the President from the established policy of his predecessors were not confined to the aborigines of the southern section of the union. In the northwestern states difficulties began to occur which, before the end of the period of which we are treating, had involved the country in an expensive frontier war.

A treaty had been made in 1830, with the Sacs and Foxes, by which they agreed to cede their lands to the United States and to remove beyond the Mississippi. As they did not promptly comply with the treaty, and one band under the command of Black Hawk evinced a determination to maintain possession of their old village, John Renyolds, governor of the State of Illinois, chose to construe their continued residence in the ceded territory, as an invasion, of the state, and under his authority to protect the state from invasion, he ordered out seven hundred militia to remove the Indians beyond the Mississippi according to the treaty.



This unjustifiable interference with the peculiar duties of the federal government, compelled the officer commanding the United States troops in that quarter to coöperate with him in order to prevent a collision between the state militia and the Indians.—Overawed by the imposing force brought against them, they yielded to necessity and crossed the Mississippi, but gathering strength on the western bank of the river, and exasperated at the harsh treatment they had received, Black Hawk and his party resolved on commencing a predatory war on the frontier settlements.

This party had long evinced a hostile disposition towards the whites, and a few months before had attacked an unarmed party of the Menomonies, who were under the protection of the United States. They however had been restrained by the peaceable part of the tribe from commencing hostilities, and possibly might have been prevented altogether, had not the hasty interference of Governor Reynolds given an ascendancy to the war party in their councils, and enabled Black Hawk to carry the tribe with him in his measures. In the month of March, 1832, he accordingly assembled a band of Sacs and Foxes, which, united with the Winnebagoes under the control of the Prophet, were about 1000 in number and crossed the Mississippi at the Yellow Banks in a hostile manner.

The frontier settlers alarmed at the appearance of so large a band of unfriendly savages fled

from their farms, and the governor ordered out a brigade of militia for their protection.

These troops before meeting the Indians requested to be dismissed, and in the meantime General Atkinson, the commander of the federal forces in that quarter, was instructed to call on the governor for a detachment of militia for the defence of the frontier settlers. 3000 mounted volunteers were ordered into the field upon this requisition, and with 400 regulars in addition, the campaign was opened about the 18th of June. Black Hawk finding himself unable to withstand this force retired into the swamps, whence he sent out detached parties to attack the unprotected settlements. In this manner he annoyed the people residing in the mining district of Michigan, and murdered a number of defenceless families.

The alarm was now real, and General Scott was ordered from the sea board with nine companies of artillery drawn from the coast, nine companies of infantry from the lakes and two companies from Baton Rouge to put an end to the war. Such was the promptness with which these orders were executed, that five out of the six companies of artillery ordered from Fort Monroe in the Chesapeake arrived in eighteen days at Chicago, eighteen hundred miles distant in the interior of the country. Unfortunately this detachment was attacked by the cholera on the route, and the whole were rendered unfit to take the field before they arrived at the scene of action.

General Scott finding the force

under his immediate command unfitted for active service, and that he could not safely join General Atkinson without hazarding the safety of the troops then in the field, directed him to act without reference to his detachment.

That officer had, in the meantime, been actively employed in pursuing the Indians and driving them from their lurking places. Black Hawk finding himself pressed on all sides, broke up his camp and marched towards the Mississippi. The volunteers under Generals Dodge and Henry pursued him, and came up with him on the 21st of July, on the bank of the Ouisconsin. During the engagement the Indians conveyed their women and baggage over the river, and in the night they crossed the stream themselves leaving sixtyeight killed. The volunteers however also retired in order to obtain provisions from General Atkinson.

The pursuit was then renewed, and on the 2d of August another engagement ensued on the left bank of the Mississippi, near the mouth of the Ioway, where the Indians were dispersed with a loss of more than one hundred and fifty killed.

Black Hawk, with a small band, fled to the Winnebago country, and the residue sought to escape over the Mississippi.

Parties of friendly Indians were despatched to bring in the fugitives, and Black Hawk and the residue having surrendered themselves, the war was concluded and treaties made, by which the offending tribes agreed to compensate for the expense of

the war by a cession of a valuable part of their territory, and to immediately remove to the west bank of the Mississippi. The federal government on its part stipulated to pay annually for twentyseven years \$10,000 to the Winnebagoes, and \$20,000 to the Sacs and Foxes for thirty years. Other provisions were also made for their improvement in civilization.

While the northwestern frontier was thus agitated by the movements of hostile tribes of Indians, the inhabitants of the northeastern border were excited by an unpleasant collision, arising out of the award of the King of Holland concerning the boundary line between the United States and the British provinces.

During the sitting of the Legislature of the State of Maine in 1830-31, a law was passed authorizing the inhabitants of Madawaska to organize themselves as a town corporation. This was accordingly done on the 20th August, 1831; and at the annual election in the following month, the inhabitants met and elected a representative to the Legislature. Upon hearing this, the British provincial authorities sent a military force, and arrested three persons taking part in the town meeting and carried them to the province jail for trial. Here they were tried and sentenced to three months' imprisonment. This high-handed step on the part of the British authorities excited great indignation among the people of Maine, and the executive council being called together recommended the State to use all



constitutional means to procure the release of its citizens. Deeming it inexpedient to do anything, which might lead to a collision with the provincial authorities, they thought it necessary to take measures to protect their territory from invasion and their citizens from capture. They accordingly recommended the governor to issue a general order calling upon the militia to hold themselves in readiness to act whenever called upon.

A representation was made by the Secretary of State to the British minister at Washington, remonstrating against these proceedings of the provincial government, and through him the release of the prisoners was obtained.

The difficulty however was not adjusted in this manner. The award of the King of Holland had not only undertaken to give to England territory belonging to the State of Maine: but it had departed from the terms of the submission and had rather *advised a compromise*, than *decided a controversy*. It was therefore deemed invalid; and the State of Maine contended, that the federal government was not competent to make a treaty, by which a state was to be deprived of any portion of its territory. This position might not have borne a thorough examination: but it would have been embarrassing to a cabinet, that had already construed the sovereignty of a state, so far as it concerned her territory, to be paramount to the treaty making power of the national government.

On the other hand the British government professed its readiness to carry the award into effect, and however correct the government of the United States might be in refusing to regard the *advice* of the arbiter as a *decision* under the treaty, it would neither have been right nor expedient, to question its own power to make a valid treaty for the final adjustment of the controversy. In this dilemma the administration commenced a negotiation with the State of Maine, with the view of obtaining its consent to the cession of the territory in dispute.

The State of Massachusetts was interested equally with Maine in the property of the soil, and had expressed its determination to sustain the rights of her sister state in the controversy. It was therefore necessary for the two states to act in concert, in the adjustment of a question where they were jointly interested.

This however was not deemed expedient by the governing party in Maine; and William P. Preble was appointed an agent on her part to arrange the terms, upon which that State would consent to the execution of the treaty. After some negotiation Mr Preble addressed a letter to the governor of Maine, advising the State to cede to the United States her claim to the territory, beyond the boundary line recommended by the arbiter for an ample indemnity.

The motive to this advice was not communicated to the public, nor was any information given as to what indemnity was expected; but a confidential message was

transmitted by Governor Smith to the Legislature, informing that body of the advice of the agent, and stating his belief, that an adequate compensation would be made by the United States for the loss of territory. As this belief was founded upon a secret arrangement between the agent and some members of the federal government, the terms were not communicated to the legislature; but enough was stated to leading members of the administration party, to secure the assent of the State Senate to resolutions in favor of a treaty between the State and the United States, in relation to the cession. This treaty, however, was not to be binding upon the State, until it had been formally ratified by the legislature; and the resolutions were directed to be sent to the governor of Massachusetts, in order that measures might be taken by that State for the protection of her interests in the ceded territory.

The Senate passed these resolutions without much opposition, but in the House more light was required upon the agreement with the federal government.

In answer to this requisition, the governor laid before the legislature all the official letters of the agent, except one letter marked private and confidential, and containing the substance of the proposed arrangement, which he declined to lay before that body; and instead thereof he informed the House, that it was in the hands of the chairman of the committee to be used by him according to his discretion. This extraordinary mode of transacting public business, by confining all

knowledge of the terms of an arrangement affecting the interests of the whole State to the dominant party, appeared so opposed to the principles of a free and constitutional government, that it provoked severe animadversions from the periodical press. The public mind however was now too much under the influence of party feeling, to be affected by any appeals to reason, and the resolutions were passed by a majority of the House, 80 yeas, 69 nays.

When these proceedings were communicated to the governor of Massachusetts, he requested the governor of Maine to furnish for the information of the government of Massachusetts, copies of the correspondence, in relation to the disputed territory.

This request was not complied with, on the ground that most of that correspondence was private and confidential, which he was not authorized to make public.

The course of the government of Maine was not well calculated to ensure the confidence of her sister state, and nothing was done by the latter to sanction an arrangement, the terms of which they were not permitted to know.

In the Senate of the United States, the executive met with even less success in seeking to avoid the responsibility of deciding upon the validity of the award. Shortly after the opening of Congress, he transmitted the award and accompanying documents to the Senate with a message, stating that the British government had demanded the execution of the award, and requesting the advice of that body.

Mr Sprague of Maine, when the

subject came under consideration, (January 24, 1832) offered resolutions denying the power of the general government to cede any portion of the territory of a State without the consent of that State; and asserting that in establishing the exterior limits of the United States, it could only establish the true boundary as described in the treaty of 1793; that the arbiter had in effect undertaken to decide a question never submitted to him; and that his award being beyond the submission was not binding upon the United States. The President was accordingly advised to commence a new negotiation with the British government, to establish the true boundary according to the treaty of 1783.

These resolutions were referred to the committee on foreign relations and on the 21st of March Mr Tazewell brought in a report from that committee advising the President to inform the King of the Netherlands, that the Uni-

ted States assent to the award and consent to its execution.

This resolution was stricken out, yeas 35, nays 8, and in its stead Mr Mangum proposed to advise the President to inform the arbiter, that the United States decline to adopt the boundary proposed.

It was then moved by Mr Ewing, to substitute a resolution, that the Senate do not advise a submission to the award or consent to its execution. This amendment was negatived, yeas 20 nays 23.

Mr Mangum's resolution after an amendment substituting 'the British Government,' instead of 'arbiter' was rejected, yeas 14 nays 30.

The Senate finally by a vote of 23 yeas to 22 nays, advised the president to open a new negotiation for the adjustment of the boundary, and the matter remained unadjusted at the close of the period, about which we are treating.

## CHAPTER II.

*Falkland Islands: — Grant to Governor Vernet — Capture of American Sealers — Lexington sent for their Protection — Settlement at Falkland Islands broken up — Piratical attack of Malays on Ship Friendship — Frigate Potomac despatched to punish them — Town and Forts destroyed — Claims upon Naples — An Envoy appointed to demand satisfaction — Demonstration of Naval Force — Claims adjusted by Treaty. — Negotiation with Mexico — Treaty concerning Limits — Treaty of Commerce and Navigation.*

THE management of the relations between the United States and other powers did not manifest the same want of character and capacity, that characterized the negotiations with the British government.

Towards all other nations the tone of the government was moderate but firm, and the honor and interest of the country were maintained in a manner indicative both of spirit and ability. Among the questions, that arose during the year was one relating to the Falkland Islands, so often the fruitful source of controversy between civilized nations.

These islands 'which, in the deserts of the ocean, had almost escaped human notice, and which if they had not happened to make a seamark, had perhaps never had a name;' after having brought England and Spain to the verge of war, as if they could never be mentioned except as the cause of discord, now produced a collision

between the United States and Buenos Ayres.

Lying amid the stormy seas surrounding Cape Horn, and almost within the antarctic circle, they had been long deserted by man, and afforded only a shelter to the seals, which were there found in great abundance. In the adventurous voyages of the fishermen of the eastern states, who left no sea untraversed with their enterprise, these islands consequently had not been overlooked. The number of vessels resorting there, induced the government of Buenos Ayres to suppose the islands to be valuable as possessions; and in 1829 measures were taken, upon the application of a foreigner by the name of Don Louis Vernet, to assert its title. A lease was given to him of the exclusive right of fishing at those islands and the coast adjacent to Cape Horn, and he was at the same time appointed Governor of Falkland Islands.



After various attempts to induce the sealers to take out licenses to fish under his authority, he began to enforce his monopoly by capturing three American vessels, taking care however not to molest the English vessels, that were on the same fishing ground. It is well known to all familiar with the history of the last century, that the title of Spain to these islands has always been disputed. After the controversy between England and Spain had been adjusted, by putting the former in possession, the British government deliberately abandoned them in 1774, leaving there the usual emblems of sovereignty.

In this deserted condition they remained, the fishery being open to the whole world; until Buenos Ayres lately undertook to claim possession as succeeding to the title of Spain. How that republic entitled itself to that prerogative of the Spanish crown and became as it were its residuary legatee instead of Chili, Paraguay, Colombia or the Banda Oriental, it would be difficult to tell; and even if it were so, less of arrogance would have been more becoming in asserting a claim, which had been once before successfully resisted by England, and which had not been subsequently strengthened by the complete abandonment of the islands by all parties, until the enterprise of our citizens had shown that even the ultima thule of the Southern Ocean could be made to minister to the wants of the human race.

Moderation did not however suit Don L. Vernet, who was governed solely by a spirit of cupidity, and who thought the federal

government of 1830, would submit as tamely to depredations and insults as that of 1806. He accordingly commenced asserting his title, by arresting the captains and boats' crews of the American fisherman while on shore, unsuspecting of danger, and then despatching an armed force to take possession of the vessels and bring them into port. One of these, the *Superior*, after taking out her cargo, he sent into the Pacific upon a sealing voyage; the *Harriet* was sent to Buenos Ayres for condemnation; and the third, the *Breakwater*, escaped from her captors and arrived in the United States.

These outrages were not suffered to pass unpunished. The President with a promptitude, which has always characterized his movements, whenever it was necessary to act in vindication of the rights of the nation against foreign aggression, immediately despatched a competent force to protect our sealers in the neighborhood of Cape Horn. Part of the crew of the *Superior* having been left on Staten Island, on a sealing expedition, and Governor Vernet having by the capture of their vessel deprived them of the means of departure, Captain Duncan sailed in the ship of war *Lexington* from Buenos Ayres for their relief.

On his arrival December (28th, 1831,) at the Falkland Islands, he took the necessary measures to break up the establishment of Governor Vernet by spiking the cannon; depriving those who were concerned in the capture of the sealers of their arms; restoring the captured property to its

owners ; and transporting seven of the most prominent actors to Buenos Ayres for trial.

The nuisance was thus promptly abated, and although the government of Buenos Ayres professed great indignation at the unceremonious manner, in which a settlement under the protection of its flag had been treated ; a lesson (and not the first) had been afforded it of the danger of lending that flag, as a cover to acts too nearly bordering upon piracy, to be easily distinguished.

Chastisement equally prompt and signal was inflicted on the Malays of Quallah Battoo for a piratical attack on the ship *Friendship* of Salem. These tribes, who were always regarded as the pirates of the East, had frequently before captured American vessels, trading on that coast, by sudden attacks on the crews.

In this instance a large portion of the crew of the *Friendship* was massacred, and it was deemed necessary to punish the offenders in a summary manner.

The frigate *Potomac*, Captain Downes, was accordingly ordered to proceed to Sumatra for that purpose, with the second mate of the *Friendship* on board to point out the offending tribe.

She arrived there the 5th of February, 1832, and being disguised as a merchant vessel, a boat was sent off as if for the purpose of trading with the Malays. Such strong indications of hostility were manifested, that it was not deemed prudent to land, and after observing the situation of the harbor, forts, and town, they returned to the ship.

The next morning at an early hour, a detachment of two hundred and sixty men were despatched under Lieutenant Shubrick, to storm the forts, which were five in number. They landed undiscovered, and dividing their forces, they proceeded to attack the town. Upon approaching the gate of the northernmost fort, the sailors were fired upon, but they tore down the palisades, and soon drove the Malays from the fort, leaving twelve dead upon the spot among whom was (Poona Mahamet) one of the rajahs engaged in the capture of the *Friendship*. The other forts were carried in the same manner, after a short resistance by the Malays, of whom between eighty and one hundred were killed, and a larger number wounded. The town was then fired and the forts destroyed. The contest lasted nearly three hours, and the loss of the Americans was three killed and ten wounded.

This chastisement left a salutary impression on the minds of these piratical tribes, and the neighboring rajahs sent deputations to Captain Downes assuring him of their friendly disposition towards the United States, and expressing their desire to obtain the friendship of the Americans.

Similar success attended the efforts of the executive to obtain redress from the government of Naples, for the sequestration and plunder of American property during the ephemeral reign of Joachim Murat. These claims arose from the seizure between the years 1809 and 1812, of several vessels with their cargoes, all

belonging to the citizens of the United States, without any pretence of their having violated any law either municipal or national. They had been invited into the Neapolitan ports by the minister of foreign affairs, and when enticed in that manner into the power of Murat, they were seized under the Berlin and Milan decrees. The cargoes were sold and the vessels also, (except some which were taken into the royal service,) and the proceeds put into the public Treasury. The proper return for this violation of our national flag, after a suitable demand of redress would have been reprisals or a bombardment of the Neapolitan capital, but yielding to the councils of timidity, no decisive steps were taken by the American government to enforce these claims, until after the conclusion of the treaty, for the adjustment of similar claims upon France. An ill conceived attempt was indeed made at negotiation by Mr Pinckney in 1816, as he was hurrying to St Petersburg; but it was feebly followed up, and the American envoy was diverted from his purpose by the finesse of the Neapolitan Court, and the mission proved a complete abortion. A demand too was made during the administration of Mr Adams by Mr Appleton, who was sent as agent to Naples for that purpose, but it was not followed with any results.

After Mr Livingston became Secretary of State, he thought it advisable to renew the negotiation for the adjustment of these claims, and arrangements were made to demand satisfaction in an imposing manner. John Nelson of

Maryland was appointed minister at Naples, with the rank of Charge d'Affairs in October, 1831, and was directed to require an explicit answer from the Neapolitan government. Knowing the effect, that a suitable demonstration of force would produce on that government, the vessels of war belonging to the United States then in the Mediterranean, were ordered to assemble in the harbor of Naples; leaving it to the imagination of the royal advisers, to divine with what motive a powerful fleet was concentrated near their capital at the critical moment, when a demand of redress for spoliations upon American commerce was renewed for the third and last time. The ordinary objections, which had been before urged against their allowance, would no longer answer. Denmark and France had admitted the validity of claims similarly situated against their respective governments; and treaties had been concluded, by their stipulating to pay specified sums as indemnities to the United States. Naples was therefore obliged to choose between the admission of these claims, or the enmity of the United States, whose fleet was then in a situation to inflict ample vengeance on her capital, for the unatoned insult to the American flag.

With these considerations full in their minds, and the ominous name of Nelson — (a name fraught with recollections of bombarded capitals and exacted indemnities) — at the end of each despatch, the Neapolitan ministers hesitated to assume the responsibility of rejecting the demands of



the American minister, and the negotiation progressed rapidly towards a favorable conclusion. Some difficulty indeed occurred as to the amount to be paid to the United States, and at one moment the negotiation seemed to be at an end; — the American minister having demanded his passport, and made his arrangements to go on board the fleet; but the Neapolitan cabinet finally concluded to yield that point, and the negotiation was resumed, and the sum of \$ 1,720,000, or 2,115,000 ducats was inserted in the treaty, as the indemnity to be paid by Naples to the United States for her spoiliations upon American commerce, in nine equal instalments with interest at four per cent from the ratification of the treaty.

Equal success attended the efforts of the administration in the negotiation with Mexico.

For several years past, that republic had regarded the United States with great jealousy, which, although unfounded, had nevertheless proved an insurmountable obstacle to the conclusion of any satisfactory treaty.

Two parties, originating in a masonic feud, had distracted the Mexican capital for many years; and from the circumstance, that the American Minister had procured the charter of one of the lodges from the United States, he was identified by the other party with the Yorkinos, whose charter he had procured. A local prejudice was thus excited against him, which the agents of Great Britain were not unwilling to foster, with the view of promoting their own rival interests.

This spirit displayed itself not only in threats against the American minister, but also in an unwillingness to enter into any treaty with the United States.

The ratification of the treaty adjusting the boundary line between the United States and Mexico, which had been agreed upon in 1828, was thus delayed for several years after it had been signed by the plenipotentiaries of the parties. By that treaty the same boundary was established, that was described in the treaty between the United States and Spain, concluded February 22, 1819; but the difficulties above alluded to, prevented its ratification.

In order to remove the obstacles arising from the unfounded prejudices entertained against the American minister, the President concluded to substitute one of inferior rank. Under his auspices the treaty was ratified.

A treaty of commerce and navigation was also concluded for eight years, and thence until one of the parties should give one year's notice of its intention to terminate the same. By this treaty, the commercial intercourse between the two countries is placed upon the same footing of liberality and reciprocity, that is observed in all the commercial treaties with the United States.

A better understanding was thus produced between this country and Mexico, and an opportunity afforded to the people of that country to ascertain, by experience, how groundless were their suspicions of the feeling and policy of the American government towards them.



### CHAPTER III.

*Cholera: — Characteristics — Progress — Fatality — Origin — Course in India — Appears at Bombay — Ceylon — China — Arabia — Persia — Syria — Java — Russia — Poland — Germany — Hamburgh — England — Ireland — France — Canada — New York — Philadelphia — Washington — Albany — Buffalo — Cincinnati — New Orleans.*

THE year 1832 will be long remembered in the United States, as the era of the first appearance of the Indian or spasmodic cholera upon the western continent. This extraordinary disease, which, after having been subjected to the observation of the medical profession in the old and in the new world, seems almost as little understood as when first it appeared in India, had long been spoken of as one of the most formidable diseases of the Asiatic continent; and within a few years past, it had forced itself more particularly upon the attention of Christendom, by its advance towards the northern portion of Europe.

The suddenness of its attack; the shortness of its duration; its malignancy, and the difficulty of cure; all combined to impress the public mind with an undefined but overwhelming apprehension of a pestilence, of which nothing was known except that its approach was gradual and sure, and that while no effectual remedy

could be prescribed by medical skill, certain death must ensue unless some relief was afforded. This disorder, though it sometimes attacked its victims in the streets, and when walking or riding, more frequently manifested itself in the night, and towards the approach of day. The person was suddenly seized with a sense of nausea and oppression, or of exhaustion in the stomach, followed by a commotion of the bowels. This was sometimes so instantaneous, that it seemed as if he had been struck by a musket shot. A feeling of coldness immediately pervaded the body, and vomiting and purging took place simultaneously. This commotion was generally attended with pain, though sometimes the patient was merely exhausted. An insatiate thirst then ensued, and a general listlessness and languor began to manifest themselves — the pulse contracted, and at the same time became more rapid — the skin lost its natural warmth, and the patient began to complain of in-

creasing rigor and of a buzzing in the ears, and manifested great drowsiness. The abdominal muscles were contracted, and spasms ensued, more particularly affecting the muscles of the feet and the hands, but sometimes those of the body.

An unnatural perspiration appeared on the skin, and the temperature of the body continued to sink—the voice became feeble, the countenance pallid, the skin shrivelled, the eyes invested with a livid circle, the tongue cold, the pulse tremulous, until the victim sunk, (with a mind generally tranquil and undisturbed,) from the rapid exhaustion of the physical powers.—About one third of those attacked fell under the violence of the disorder, within twelve and many within four hours. The efforts of the healing faculty were directed to restore the natural secretions, which seemed to be totally suspended, and if that could be accomplished, hopes were entertained of the patient's recovery; otherwise his fate was certain. No rational opinion could be formed concerning the natural causes of this visitation upon the human race. Although it originated in Hindostan, it had extended itself to other countries, and had raged alike in the islands of the Indian ocean and in the interior of the Asiatic continent, until, passing over the lofty chain of the Caucasian mountains, it established itself in the heart of the Russian empire. Even the frosts of a northern winter, which had put an end to other plagues, although it diminished its power, did not destroy this pestilential miasma,

that slowly but gradually advanced from the spot of its origin to the centre of Europe, in spite of all the precautions of governments, and regardless of the rules, that human wisdom had assigned as the laws of its communication and progress.

In some countries warmth and moisture were deemed to be the causes of the epidemic; but when it raged in the depth of an arctic winter, it was concluded that other agents must be regarded as having some efficacy in its production. Filth, which in most cases had aggravated the severity of the attack, did not seem in London to have produced such an effect.

It advanced along the channels of human intercourse, but no investigation could discover the mode of communication; and numberless instances were adduced, shewing, that it was not easily communicated by any intercourse between man and man. The healing faculty was equally at a loss, as to the means of prevention and cure. Quarantines were generally condemned by its members, as futile and unnecessary; and yet the appearance of the disease was so invariably preceded by intercourse with places already infected, that the almost unanimous testimony of physicians failed to satisfy the community, that the cholera was not a contagious disorder. The treatment, which at one place was considered successful, was condemned by subsequent experience as positively injurious; and all that medical science had gained by the appearance of the cholera in Europe, after long and close

observation, was a conviction, that it was a complaint which had not been witnessed before; that it began, where other diseases terminated—in death—and that it was beyond their skill either to prevent or to cure.—Temperance, cleanliness and courage were recommended as the surest safeguards, and sudorifics as the best remedies; but all their care and skill did not prevent its being a terrible scourge to the places laying in its destined course, nor could they save but little more than half of the objects of its attack.

As an epidemic, this spasmodic cholera is a plague of modern origin. In Hindostan spasmodic cholera has probably always existed, as a comparatively mild disease, affecting at certain seasons a small number of individuals in various parts of the country. But there is no evidence to show that it ever bore the epidemic character, previous to the beginning of August, 1817, when it suddenly broke out with unprecedented malignity. Commencing among the inhabitants of Jessore, a town 100 miles northeast of Calcutta, in less than a month it travelled along the course of the river to that city, having desolated the intervening villages. Before the expiration of August, the native population of Calcutta were attacked, and early in September the disease was also manifested among the Europeans.

From January to May, 1818, the pestilence raged with extreme violence, extending its destructive influence across Bengal, from Silhet to Cuttack; and towards

the interior, from the mouth of the Ganges to its confluence with the Jumna, a space including 450 square miles. Leaving Bengal, the disease retired for some time to the western bank of the Ganges and Jumna. In its most malignant form it appeared at Benares, where in two months 15,000 persons perished. At Allahabad forty or fifty died daily. To other locations, situated on either bank, the disease soon spread, and the mortality was equally great. In the district of Gorakhpore, 30,000 were carried off in a month. Then suffered in succession Lucknow, Cawnpore, Delhi, Agra, Muttra, Meerat and Bareilly. The cholera now directed its course across the Deccan, advancing in many instances at the rate of fifteen or eighteen miles a day, and remaining at various posts during a period of from two to six weeks. In this way it reached Husseinabad, where the mortality was frightful for several days. It then followed the banks of the Nerbuddah to Tanah, and afterwards traversed to Aurungabad, and Poonah. Taking the direction of the coast, it arrived at Bombay, August, 1818, having crossed the Indian peninsula in twelve months from the date of its appearance in Calcutta.

While the interior of Hindostan was submitting to this infliction, the pestilence had spread along the coast of Malabar and Coromandel, reaching Madras the 8th of October. In its progress here, a new and alarming feature was developed. The possibility of transporting the contagion by

sea, was evinced in its transit from Coromandel to the island of Ceylon. In Candia, the capital, it broke out December, 1818, with even greater violence than upon the continent. By the 15th September, 1819, Mauritius was included in the islands infected. The disease did not appear until after the arrival of the *Topaz* frigate from Ceylon, where the epidemic was then raging. The vessel at the time of sailing seemed healthy, but during the passage the cholera had appeared among the crew. In the adjacent island of Bourbon, the disease began early in December, 1819. During the last six months of 1819, the cholera, pursuing its route to the *south* and *east*, had also invaded the Indo-Chinese peninsula. Siam received more than a proportional share of misfortune. The contagion marched on to Malaga and Singapore. By the end of April, it was announced on the northern coast of Java. During May it extended with violence in the interior of this island. Cochin-China and Tonquin were invaded in 1820. In December of the same year, it entered China, beginning its ravages at Canton. Peking admitted the enemy in 1821, and during that and the following year, the mortality was so enormous, that coffins and other funeral requisites were necessarily furnished at the expense of the public treasury, for the interment of the poorer classes.

We shall now describe the course, which the epidemic took to the *north* and *west* from Bombay, towards the confines of Eu-

rope; and the route by which at last it was enabled to traverse the Russian empire. In July, 1821, through the intercourse maintained by ships trading between Bombay and Muscat, in Arabia, the contagion was exported to the latter. Here the disease destroyed 60,000 persons. Many expired ten minutes after the infection. The cholera now spread to different parts of the Persian gulf—to Busheer and Bassora.

From the Persian gulf the cholera extended, inland, in two directions, following the line of commercial intercourse. On one hand it ascended the Euphrates, traversing Mesopotamia, into Syria; and the Tigris, from Bassora to Bagdad; on the other, the disease was propagated into Persia. In the city of Shiraz, the population of which is 40,000, there died 16,000 in the first few days. Extending through Persia, the pestilence visited several districts in the north and south of the kingdom. Ispahan escaped—the caravans from Shiraz being prohibited from entering the city. The route that was substituted, lay through Yezd. This town paid dearly for the visitation, as 7000 persons were afterwards swept away by the cholera. During the succeeding winter, the pestilence became dormant, both in Persia and Syria. In the spring of 1822, the Syrian and Persian streams of contagion had their frozen energies restored to activity. They quickly spread in their primitive vigor: Mosul, Beri, Achtab and Aleppo were infected. In Persia, during Septem-



ber, the disease spread to the northward of Teheran, throughout all Kurdistan and Tauris. In the spring and autumn of 1823, Diarbekr and Antioch were attacked, and the disease ravaged many of the towns along the Asiatic side of the Mediterranean. It also extended in an opposite course, attaining in the month of August, Baku, upon the borders of the Caspian Sea. At length, in September, it reached the Russian city of Astracan, at the mouth of the Volga. It first broke out in the marine hospital. From the 25th of September to the 9th of October, there died 144 patients, nearly two thirds of all who had been attacked. Vigorous measures were enforced by the authorities for checking the contagion, but it continued to manifest itself until the severity of winter had set in. During the ensuing summer it did not return.

In 1822 it re-appeared in Java, and carried off 100,000 people. After visiting Ternat, Celebes and Banda, in 1823 it first reached Amboyna. Afterwards it committed great havoc in Timor. For several years the cholera pursued its destructive course through China. After desolating several cities in Mongolia it reached the frontiers of Siberia at the end of the year 1826.

After the first invasion Persia had several returns of cholera. In October 1829, a very serious inroad commenced in Teheran, the royal residence. But the occurrence of winter stopped its progress for the time.

The contagion, however, was again resuscitated towards the middle of June 1830, in the provinces of Mazanderan and Shirvan, upon the southern shore of the Caspian sea. From the latter it passed through the town of Taurus and destroyed five thousand of its inhabitants. Crossing the Russian frontier it rapidly advanced towards the interior. The eighth of August it entered Tiflis. The population was soon diminished from thirty thousand to eight thousand, by deaths and migration to avoid the distemper. In the meantime, by the first of July the malady had reached Astracan. The contagion, in penetrating to the heart of the Russian empire, from Astracan, pursued the course of the Volga, which spread its navigable waters over the most populous provinces. Considerable havoc was made among the Cossacks of the Don. The capitals of the several districts, between that, and Moscow were ravaged in succession. In that city the appearance of the destroyer was announced the twenty-eighth of September, — having travelled from Astracan, a distance of 900 miles, in less than three months. In Moscow energetic measures were instantly instituted by the government, to afford every assistance to the sick and to oppose the progress of the malady. By the tenth of November 6506 cases were returned, and the deaths amounted to 2908, or more than a half. In this place it seemed to take up its quarters for the winter, and issuing thence in the spring of 1831,

it attacked the Russian army, and directly after the battle of Igani on the tenth of April, the Polish troops defending Warsaw. Its ravages continued in that city seven weeks, and it extended itself through Poland. It appeared at Dantzic and Riga in the month of May, and on the tenth of June it made its appearance at St Petersburg, where it remained about the same period. In July it was found at Archangel, in August at Berlin and at Vienna. In Hungary the destruction was appalling, it having destroyed 102,657 in that kingdom between the months of June and October. Having thus ravaged the interior of the European continent, it made its appearance on the shore of the German ocean, at Hamburg in the beginning of October, and established itself in the centre of the commercial intercourse of the north of Europe. Great alarm was now felt in England, and the government with commendable prudence took every precaution to avert or to alleviate the scourge, which seemed to be approaching that kingdom. Medical men were sent to the continent, to obtain information of the best mode of treating the disease, and to make themselves acquainted with its nature and its characteristics. A rigid quarantine was kept up in all the ports; but in Sunderland where the regulations were lax and ill observed, the cholera made its appearance on the twentysixth of October. It thence slowly extended itself through England, Scotland and Ireland, exhibiting itself with comparative mildness in the island

of Great Britain, where every measure of precaution had been taken; and raging with more severity and for a longer period in Ireland, where the habits and poverty of the people presented a favorable field for its ravages. On the thirteenth of February 1832, it appeared at London, where it soon ceased to be an object of terror except to the higher classes, although its visitations were most frequent among those poorly lodged and fed. In that city the total number of deaths up to the seventh of April was 1158; while in Paris, (where it suddenly appeared on the twenty-sixth of March, without having visited any of the frontier ports or towns,) the deaths were 1000 per diem, and by the 20th of April they had amounted to 11,000 in that city. From Paris the pestilence spread to the adjoining towns, and particularly to those on the banks of the Seine, where great mortality prevailed.

Its progress through Europe from the interior of Russia to the western shores of the old world, excited apprehensions that it would ultimately reach the American continent. Nothing, however, was done to prevent its introduction, and on the 9th of June those apprehensions were realized, by the announcement of its appearance at Quebec and almost simultaneously at Montreal. A great number of emigrants from Ireland had arrived at Quebec that season,—25,700 having reached there before the day when the cholera broke out, and in the *Carriks*, a vessel from Dublin, forty-two passengers had died of that

complaint on her voyage. Shortly after the arrival of the Carricks the cholera made its appearance in Quebec, and extended itself up the river St Lawrence, apparently travelling with the emigrants, to Montreal, and the villages on its banks as far as Lake Ontario. It also diverged towards Lake Champlain, and appearing at Whitefall on the 16th and at Fort Miller on the 17th of June, travelled with rapid strides towards Albany. No steps had been taken by the federal government to guard against its introduction, and the state governments were entirely unprepared for its appearance. The citizens, however, took the matter into their own hands, and acting upon the supposition, that cholera was contagious, they put a stop to the intercourse, between the United States and Canada. Whether this quarantine was evaded, or whether the disease moved along the great channels of commercial intercourse in obedience to some law of the atmospheric or telluric system, certain it is, that about the last of June, suspicious cases appeared both at New York and Albany, and on the 2d of July it was fully ascertained, that the cholera had obtained a foothold in both of those cities. No hope now remained of preventing the diffusion of the disease through the country. These cities were the two central points, from which the chief routes of communication to the different quarters of the union diverged; and yielding to the belief, that the contagion was communicated through human intercourse, the public at once

concluded, that no measures of precaution could prevent its extension to the principal cities of the United States. Measures however, were at once taken in the larger towns to mitigate the severity of the scourge, which now seemed inevitable. Warned by the example of New York, where a supineness, and a want of foresight highly discreditable to that city, had prevented any preparations from being made against a pestilence so long expected, the magistrates of the neighboring cities adopted the most energetic measures, to thoroughly cleanse the streets and all places where filth was likely to be collected. Public hospitals were provided at the municipal expense, and in some towns committees were formed to aid the medical profession in taking care of the sick. In the interior of the country, however, apprehension of the disorder prevailed over all other considerations, and in many instances persons attacked with the cholera, while flying from infected places, were inhumanly left to die in barns and sheds deserted, and their sufferings unalleviated by sympathy or aid. In the city of New York the disease raged with great violence — the deaths by cholera alone exceeded one hundred per day from the 20th to 25th of July, when it seemed to have attained its height. After that it diminished, but did not entirely disappear until the first of November, when it no longer appeared in the weekly reports.

During that time 3497 died of that complaint, and the total number of deaths in that city from



the first of July to the twenty-seventh of October exceeded 6,200.

On the twenty-seventh of July, the cholera made its appearance in Philadelphia, but did not afflict that place severely; great pains having been taken to purify the city. From New York and Albany the pestilence took a westerly direction, appearing in the Eastern States only in a few isolated cases; but travelling along the great western canal from Albany, and through New Jersey from New York to Philadelphia, Baltimore, Washington, Norfolk and Richmond, beyond which it did not penetrate on that route.

From Montreal too the cholera took a similar course towards the northwest — making its appearance at Kingston and York in Upper Canada, shortly before breaking out at New York. From Albany it extended itself to Utica, Rochester and Buffalo, where it met the contagious current which had ascended the St Lawrence. From Buffalo it spread along lake Erie to Cleaveland, where it showed itself on the sixth and at Cincinnati on the eighth of October. It did not appear at Pittsburgh until later, and then only in a few

cases. From Cincinnati it passed to Louisville and thence to New Orleans where it raged with violence unprecedented in America, at the same time with the yellow fever, commencing about the 26th of October, and on the first of November alone the deaths exceeded one hundred and seventy. From the 28th of October to the 11th of November, the interments in that city amounted to 1668, notwithstanding a large portion of the population had left the place. Such dreadful mortality had never been witnessed before even in that unhealthy place, and in less than a year the city would have been depopulated by the hand of death. Fortunately the pestilence was as short in its duration, as it was violent. On the ninth of November the temperature of the atmosphere changed, cool winds prevailed and a slight frost at an unusually early period, put an end to the yellow fever and cholera together.

The same cause checked its activity in other places, and the pestilence which seemed to be passing off to the southwest, slumbered during the winter season, as it had upon the European continent.



## CHAPTER IV.

*Preliminary remarks on Nullification — Nullification by Georgia — Decisions of Supreme Court. — Nullification by South-Carolina — Bill calling a Convention defeated — Free trade Convention — Tariff Convention — Proceedings in Congress — In House — In Senate — Bill of Secretary of Treasury — Bill of Committee on manufactures — Bill passes — Address of the South Carolina Delegation — Convention called in South Carolina — Ordinance nullifying Revenue Laws — Measures adopted to enforce Ordinance — Course of the Federal Government — Proclamation of President.*

IN every community there is a principle hostile to the authority of the government; and the difference between an arbitrary government and one formed upon a constitutional basis, is strikingly manifested in the development of this principle.

In despotism, the actual injustice suffered from the minions of power; the uncertain tenure by which all civil and religious rights are held; and the general poverty and wretchedness, which such institutions are calculated to produce, all conspire to place the people in opposition to the government and render them prompt to rebel against its authority. In governments of a more liberal character, disaffection is produced by other causes. Wherever passion prevails over reason; where the excitements of interest are stronger than the prohibitions of

principle; where the necessities of men are greater than their means, an impatience at the existing state of things springs up, which incites individuals to crime and communities to rebellion.— Such ever has been, and such ever will be the condition of society, until the principle of evil shall be eradicated from the nature of man, and the restraints of government abolished as no longer necessary. Until the predicted Millenium shall be upon earth, civil freedom and good order can be preserved only by a constant contest on the one hand with arbitrary power, and on the other with those, who confound liberty with licentiousness and who regard the institutions of society, merely as so many impediments to the gratification of their own desires. Against the encroachments of rulers, political

constitutions framed with wisdom and preserved with care furnish a sufficient safeguard; while the licentious and the factious are to be restrained solely by the terror of the law, or by the physical force of the sound part of the community. Treaties and compacts, are insufficient securities. Incapable of self-control, they soon cease to respect the binding force of covenants, and look upon the attainment of their own peculiar ends and the gratification of their own desires, as the chief rule of their conduct, before which all other laws must bow. This general proposition has not found an exception in the United States. From the earliest period of our history, there always have been portions of the community, to whom the restraints of the constitution and the laws, have been obnoxious; but from the popular character of the government, they have always been compelled to veil their real designs under an affected desire to extend the rights of the people, and to restore the purity of the constitution.

That article in the treaty of '83, which prevented the confiscation of debts due to British subjects, gave great dissatisfaction to a certain portion of society, and when Shay raised the standard of rebellion, 'every one that was in distress, every one that was in debt, and every one that was discontented, gathered themselves unto him,' as the vindicator of popular rights, against the tyranny of the laws.

When the western settlers of Pennsylvania opposed the execution of the revenue laws, it was under the pretence, that the im-

position of an excise on whiskey, was an unconstitutional interference with the investment of capital, and a partial and oppressive burden on the industry of that part of the union. Similar instances have never been wanting, when any considerable portion of the community have been desirous of evading or opposing the execution of a law which bears upon their particular interests. The wit of man is quick to devise ingenious arguments, and sophistry is ever ready to vindicate the pretensions of cupidity and ambition. Hence the constitution is as often appealed to in behalf of those, who would use it to promote the designs of state aggrandizement, and local oppression, as of those who regard it merely as the palladium of civil liberty.— When Georgia advanced her claim to the Cherokee country under the specious pretence, that the laws and treaties of the United States were contrary to the federal compact, the whole country was opposed to her pretensions, and in the 19th Congress they were rejected, by an almost unanimous voice. Emboldened by the change which had taken place in the federal government, and probably acquainted with the views of the new President, those who administered the state government, proceeded shortly after the accession of General Jackson to encroach upon the Cherokee territory, in violation of the laws and treaties of the United States, which they declared to be null and void, as inconsistent with the reserved rights of the sovereign State of Georgia.

The federal laws and treaties being thus annulled, the Cherokees appealed to the federal government to protect them from the encroachments of Georgia. The answer they received from the Executive Department, admitted the right of Georgia to annul those laws, and they perceived that the judiciary alone could arrest the state in its arbitrary and oppressive career. With that view measures were taken to bring the question before the federal tribunals, in order to obtain a judicial decision upon the constitutionality of the steps taken by the state government.

In the first case presented, which was in the shape of a bill on the part of the Cherokee nation, praying an injunction against the state of Georgia, the court decided that the Cherokee nation was not a foreign nation, but a dependent tribe, in a state of tutelage; and that it consequently could not be a party in a suit before the Supreme Court, under that provision of the constitution authorizing *foreign nations* to prosecute suits before the federal tribunals.

From this opinion two judges dissented, and the court strongly intimated an opinion, that the tribe was entitled to protection against the encroachments of the whites, at the hands of the executive.

This decision of the court put an end to all hope on the part of the tribe, of direct relief from judicial authority. The government of Georgia now looked upon the contest as gained. The decision of the court against the claim of the Cherokee tribe to

bring suits as a foreign nation, did not indeed establish the laws of Georgia to be constitutional. On the contrary a strong intimation was given, that they were in violation of the rights of the Cherokees; and it was generally believed, that whenever the question should be properly presented, that those laws must be adjudged unconstitutional and void. The President would then be compelled to enforce laws, which he had already declared to be inconsistent with his construction of the constitution; or to determine no longer to regard the Supreme Court of the United States as the constitutional expounder of the laws. He had sanctioned the steps taken by the state to annul the laws and treaties of the federal government, and while the question as to the constitutionality of those measures was pending before the Supreme Court, marked indications were manifested, of his determination to disregard its decision.

His friends and party readily adopted the same ground, and the leading administration journals throughout the union sought to bring the authority of the Supreme Court into disrepute, and asserted, that each department of the government had an equal right to construe the constitution for itself.

This abandonment of the powers of the government by those, to whom their execution was entrusted, excited great apprehension, as to the result of the collision, which seemed about to ensue between the Supreme Court and the state of Georgia; and it was fortunate for the stabil-



ity of the government, that the Supreme Court was not compelled to decide against the constitutionality of the state laws, upon the application made in behalf of the Cherokee nation.

The public attention being called at an early state of the controversy, to the consideration of the right of a state to annul the laws and treaties of the federal government, time was given to the executive to reflect, before he was irrevocably committed by acts, as well as by declarations; and previous to the final decision by the Supreme Court, the State of South Carolina, by asserting her right to annul the revenue laws of Congress, made him aware of the dangerous character of the pretensions of Georgia, and demonstrated, that the existence of the federal government was incompatible with the right of nullification on the part of a state.

The Supreme Court, however, did not suffer itself to be influenced by the course of the President, and when the question was again presented upon a writ of error sued out by some missionaries, who were imprisoned under the laws of Georgia, it promptly decided those laws to be unconstitutional and void, and ordered the prisoners to be discharged. The state authorities refused to obey the mandate, and the President already committed by his precipitate declarations in favor of the course adopted by Georgia, saw the period fast approaching, when he would be compelled to retrace his steps, and to enforce the mandate of the Supreme Court against that state;

or to acquiesce in the pretensions and doctrines advanced by the nullifiers of South Carolina.

Encouraged by the countenance given by the administration to the measures adopted by Georgia, to annul those laws of Congress preventing her occupations of the Indian country, the leading party of South Carolina came to the determination, of testing the sincerity of the administration, in its acquiescence to nullification on the part of a state, by aiming a fatal blow at the power of Congress to impose revenue laws. This doctrine was first promulgated in Georgia; but in December 1827, when the Legislature of that state resolved to submit only to its own construction of the federal compact, the legislature of South Carolina, almost simultaneously asserted the same right; and after questioning the propriety of the Supreme Court's deciding questions, which might occur between a state and the federal government, concluded that, inasmuch as one of the parties must decide, there was a peculiar propriety in the state's undertaking to decide for itself. It then resolved, that all legislation for the protection of domestic manufactures and to promote internal improvement was contrary to the constitution of the United States.

This convenient doctrine, in February 1829, received the sanction of the Legislature of Virginia, which by a vote of 134 yeas 68 nays, resolved, that the constitution of the United States being a federative compact between sovereign states, in construing

which no common arbiter is known, each state has the right to construe the compact for itself. The right of a state to decide what laws were constitutional and what unconstitutional being thus summarily established, and the tariff laws declared to be unconstitutional, it only remained to point out some mode to prevent their operation.

In spite of the argument contained in the report, and the determined resolution expressed in the resolves of these State Legislatures, Congress proceeded to modify and alter the tariff, according to the pleasure of the majority; without conceiving itself bound by the will of the minority.

Even the protests interposed on the part of certain states, were laid upon the table of Congress without comment; as if those respectable bodies were intermeddling with subjects, which were not entrusted to their care.

When it was seen how little effect these protests produced, it was proposed in a meeting of the South Carolina delegation, that they should withdraw from Congress. This having been deemed inexpedient, it was recommended to wait, until an opportunity had been given for the new administration to develop its policy. Still, however, the right to annul the law was insisted upon, although it was deemed proper at first to try conciliatory measures. During the first session of the 21st Congress the duties were reduced on coffee, cocoa, tea and molasses; but as these were not articles which came within the scope of

the protecting policy, it was not regarded as a sufficient concession by those, who aimed to overthrow the 'American System.' Efforts were accordingly made to obtain a majority in the Legislature of South Carolina, in order to carry the remedy of nullification into effect. They succeeded so far as to obtain a majority in the legislature, but not sufficiently large to authorize a convention; which was the body, that, in the opinion of the nullifiers, emphatically represented the majesty of the people. The bill for that purpose was introduced into the Legislature, which met 22d November, 1830, and received in the Senate 23 in favor of and 12 against it, and in the House the vote stood 60 yeas, and 56 nays, but it was lost, two thirds of the Legislature being required for its passage. Certain resolutions were then introduced, some of which being abstract principles, were acceded to, and those which set forth the doctrines of nullification were carried by a party majority. The near prospect of success, stimulated the nullification party to unwonted exertions.

An association was formed to advocate the doctrines of their party, under the specious titles of the rights of the states and the principles of free trade, and every effort was made to raise the public feeling to that pitch, when it seems on the point of exploding. Tracts and pamphlets advocating their cause with zeal and ability, were distributed in all parts of the state, and the people were exhorted to be ready to defend the sovereignty of the state against the



slavery, which awaited them and their children, in case they failed in this last attempt to resist the usurpations of the federal government. Payment of bonds, which had been given for duties, was refused with the view of testing the constitutionality of the tariff of 1828; but the court decided, that no evidence could be given of the want of consideration, on the ground of the unconstitutionality of the tariff; and the jury accordingly found in favor of the United States.

Having been disappointed in evading the execution of the act in this mode, the nullifiers proceeded to carry their scheme into execution, by operating on public opinion through the fears of the timid and prudent.

The friends of free trade were invited to meet in convention at Philadelphia on the fifth of October 1831, with a view of concerting a plan of action, and alarming the public mind as to the consequences, unless Congress should abandon the policy deliberately adopted, upon the requisition of South Carolina. On the other hand, the friends of the tariff met in convention at New York on the 26th of the same month, to sustain the system and to combat the arguments, which might be urged against it, by the free trade convention.

When this body had assembled it was speedily discovered, that the doctrines of nullification had but few friends out of South Carolina, and it was agreed that it was inexpedient to insist upon the unconstitutionality of the tariff: but that the policy of pro-

tecting duties should be questioned, and the danger of alienating the affections of the people of the southern states be strongly insisted upon. A memorial setting forth these views was accordingly prepared by Albert Gallatin, and transmitted to congress, while a counter memorial was drawn by Alexander H. Everett on the part of the tariff convention. By the former memorial it appeared, that although the nullifiers could not induce the free trade convention to adopt their doctrines on the subject of nullification, they were enabled so far to influence its councils as to procure a recommendation of an average duty on importations in general of twenty per cent, which should in no case exceed twentyfive per cent. This was in effect a recommendation to abandon the protecting policy, and the contest now between the tariff party and their opponents, was not so much as to the amount of the revenue to be annually raised, but as to what articles it should be levied upon. It was conceded, that as soon as the national debt was paid off, an event about to take place, the revenue must be diminished.

The advocates of the 'American system,' however, contended that the duties should be diminished or entirely taken off upon such articles as did not come into competition with the objects of domestic industry: as coffee, tea, &c: while their opponents insisted, that the reduction should be extended to the peculiar objects of protection, as woollen, cotton and iron manufactures. Some went further and advocated

a reduction of duties on the protected articles only, with the view of rendering the United States more dependent upon European commerce, and in that manner increasing the market for the productions of the southern states. Others again opposed too great a reduction of the revenue, and reminded Congress, that many objects deemed worthy of the attention of the federal government and involving a large expenditure, had been postponed on account of the annual appropriation for the payment of the public debt; and that when that was discharged, the country would expect that these great national subjects should not be left neglected, from considerations of economy, which was no longer necessary. They also called, upon Congress, to provide for the payment of many private claims, which had been postponed from session to session, without any satisfactory reason, and of many public debts, the adjustment of which was imperiously required by the national character.

Among these were enumerated, sums due to revolutionary officers for depreciation of their pay; to the holders of unfunded stock; and to the merchants for their claims upon France for spoliations prior to 1800, which were surrendered in order to relieve the United States from an onerous treaty stipulation. Until these debts were discharged, it was justly remarked, that no fears need be expressed as to the disposition of the surplus revenue. These differences of opinion concerning the reduction of the rev-

enue were however chiefly confined to those, who admitted the constitutional power of congress over the whole subject. The leading party in South Carolina were willing to effect the reduction upon any terms; but they declared that nothing short of an abandonment of the principle of protection could entirely satisfy those, who asserted it to be unconstitutional, and that a state had a right to annul a law of Congress.

Upon the meeting of the Legislature of South Carolina in the winter of 1831, the governor called the attention of that body to a letter written by the President in answer to an invitation to dine at Charleston on the fourth of July. In that letter the President expressed his determination to perform his duty in case any attempt should be made to annul the laws of the union: and this was regarded, as an attempt to overawe South Carolina by threats of using force. The subject was referred to a committee in the state senate, and they reported a resolution declaring, that the letter was at variance with the duties of the President and the rights of the states.

The adjoining states indicated an unwillingness to sanction the remedy of nullification, North Carolina expressly repudiating the whole doctrine, and South Carolina found it expedient to wait another year, during which time Congress might be persuaded or intimidated into a relinquishment of the policy. While, therefore, the state government threatened loudly, it took care not to take any step, which

should compel the federal government, to use the means placed at its disposal for the enforcement of the laws. Doubts indeed were entertained by many, as to how far nullification on the part of South Carolina would be resisted by the executive.

The course pursued by the federal government towards Georgia, and the doctrines occasionally promulgated as from authority by the administration periodical press, induced them to believe, that the tariff of 1828, which was by no means a favorite with the President, would be abandoned to the tender mercies of its opponents; while others supposed, that the absolute necessity of maintaining the authority of the federal government over the revenue system, would compel him to vindicate its constitutional powers, and that the difference, which already existed between him and the adherents of the Vice President, would stimulate him to act with more energy to overthrow a heresy, which, although the child of Georgia, the Vice President had now been persuaded to adopt as his own. Under the influence of these doubts, the nullifiers resolved to wait for their threats to produce the expected effect upon Congress, before they ventured upon the decisive step of nullification.

In the annual message to that body, the President recommended a modification of the tariff, but merely in reference to a reduction of the revenue.

The present session was deemed peculiarly propitious to the views of those, who sought to destroy the 'American system.'

The payment of the public debt was nearly completed, and the great reduction, which must necessarily take place in the revenue, would afford a good opportunity to those, who were hostile to discriminating duties to endeavor to reduce them all to a uniform rate. With that intention various motions were made early in the session, calling upon the Secretary of the Treasury for information concerning the principal manufactures of the United States, and the operation of the revenue laws. The committee of 'ways and means,' and the committee on 'manufactures' were selected with reference to that object, and Mr Adams, who hitherto had been necessarily more familiar with the higher departments of the government, than with the details of the Custom house, was placed at the head of the latter committee (a majority of which was hostile to the manufacturing interest) in the hope, that the sanction of his authority might be obtained to their views. So much time however was spent in the preliminary examinations and discussions, that the committee on manufactures did not report the bill, which was finally acted upon, until the twenty third of May, 1832.

At an earlier period of the session, on the eighth of February 1832, Mr McDuffie reported a bill from the committee of ways and means, which declared that after the 30th of June 1832, the duty on Iron, steel, salt, sugar, hemp, flour, and on all cotton, woollen, and iron manufactures should be twentyfive per cent ad valorem, until June 30th 1833, when the



duty should be reduced to  $18\frac{3}{4}$  per cent, and after the 30th of June 1834, the duty should be further reduced to  $12\frac{1}{2}$  per cent ad valorem. On all other articles, except those which were free or at a lower rate of duty than  $12\frac{1}{2}$  per cent, an ad valorem duty of  $12\frac{1}{2}$  per cent, was to be paid after June 30th, 1832. This bill was intended to meet the views of the ultra opponents of the American system, and the report which accompanied it, denominated the tariff system, as imposing a tax upon the South for the benefit of the North. It was not, however, at once taken up for consideration, and on the twenty-seventh of April the Secretary of the Treasury transmitted to Congress, in compliance with a resolution of the House of the 18th of January, a bill, with a report setting forth the views of his department on this important topic. From this report it appeared, that an annual revenue of \$15,000,000 was deemed necessary for the ordinary expenditure of the government, and that \$12,000,000 of that amount must be derived from the customs. According to the average importations for several years, that sum would be produced from the duties proposed in the bill accompanying the report. By that bill an ad valorem duty was proposed of fifteen per cent on importations generally; while upon the protected articles it was to be higher. On woollen manufactures thirty per cent was proposed, except on gloves, bindings, blankets, hosiery and carpeting, which were to be at twenty-five per cent, and on

worsted stuffs and yarn twenty per cent, and on cloths less in value than fifty cents per square yard, on which it was to be ten per cent. A duty was proposed on wool of five per cent ad valorem, where the value was less than ten cents per pound, and twenty per cent, when it exceeded that value. On cotton manufactures twenty-five per cent ad valorem was proposed. On rolled iron in bolts and bars, \$30 per ton, and when not rolled ninety cents per cwt. Pig iron fifty cents per cwt. On hemp \$50 per ton. On sail duck ten cents per square yard. On cotton bagging three and a half cents per square yard. On brown sugar two and a half cents per pound, and on white three and a third per pound. On salt five cents per fiftysix pounds. On coffee half cent per pound, and on teas one cent per pound. There were some other departures from the general duty, but such were the duties proposed by the administration on the principal articles, which had been deemed worthy of particular encouragement. The reduction on woollen and cotton manufactures — the staples of the Eastern States — was so much greater than on iron, hemp and sail duck, that the administration was suspected of a design to use its influence with the view of fostering the interests of Pennsylvania and the Western States, at the expense of the Eastern; and the proposed continuance of the duty on wool, which amounted to nearly fifty per cent ad valorem, was deemed an additional proof of an unfriendly disposition towards a sec-

tion of the Union, that had not recommended itself to the executive by any marks of political attachment.

With this suspicion attached to the bill, it did not strongly recommend itself to the favorable consideration of Congress. It was however referred to the committee on manufactures, but the chairman of that committee (Mr Adams) being appointed upon the committee to investigate the affairs of the United States Bank, and the majority of Congress being unwilling to excuse him from acting upon the committee on manufactures, the business of the committee was suspended during his absence, and the report and accompanying bill were not brought in until the twentythird of May. The majority of the committee did not concur with the Secretary of the Treasury, in reducing the revenue beyond the annual appropriation to extinguish the national debt. On the contrary they thought, that at the present time the reduction ought not to be so great as \$10,000,000.

They however recommended abolishing the system of graduated minimums upon woollen manufactures, and imposing a duty of five per cent ad valorem on blankets of less value than seventyfive cents, and upon woollen manufactures of less value than forty cents per square yard; of ten per cent on worsted stuffs; of twenty per cent on worsted yarn; of four cents per pound; and thirtyfive per cent ad valorem on woollen yarn; of twentyfive per cent on gloves, bindings, blankets, hosiery and carpeting, except

Brussels, Ingrain and Venetian, which were to pay fifty cents, fortyfive cents and twentytwo and half cents respectively the square yard; of thirtyfive per cent on flannels, baizes and coach laces, and of fifty per cent on all other woollen manufactures. Wool of less value than eight cents per pound, was to be free of duty and above that four cents per pound and thirtyfive per cent ad valorem. On cotton manufactures a duty of twentyfive per cent ad valorem, and all plain cottons not exceeding thirty cents the square yard in value, were to be valued at that rate, and all dyed colored cottons at thirtyfive cents. On hemp a duty of thirtyfive dollars per ton was proposed, and ten cents per fiftysix pounds on salt. On iron and the other staple manufactures of the United States, the bill of the Secretary of the Treasury was adopted as a guide, except on silk, oil cloths, olive oil, side arms, quills, brass plates and various drugs, which being exclusively manufactured in the United States, the committee proposed a higher duty than that in the secretary's bill. They also proposed, that the pound sterling should hereafter be rated at \$4,80, which is near the par of exchange, and that the duties on woollen manufactures should be paid in cash or stored, subject to an interest of six per cent on the duties and customary charges. Other provisions were proposed for the purpose of preventing frauds, and as a compensation for the burdens imposed upon the shipping interest, a bounty or drawback was to be allowed



of two dollars per ton on registered vessels and twentyfive cents per ton on licensed vessels, and fifty cents on steamboats built in the United States. The chairman stated, that the members of the committee did not consider themselves bound by the details of the bill; but that it was reported upon the basis proposed by the Secretary, for the purpose of bringing the subject before the House.

Before the report was printed, Mr Mc Duffie, on the 28th of May, had forced on the discussion of the bill reported by him at an earlier period of the session. He had, however, scarcely concluded his introductory remarks, when in order to get rid of his bill with the view of taking up the bill reported by Mr Adams, a motion was made, June first, to strike out the first section, which was carried, 81 yeas, 41 nays.

Mr Adams's bill was then taken up, when Mr Stuart proposed an amendment increasing the duties on woollens; restoring the minimum system; and diminishing the ad valorem duty on various articles ten per cent annually, until it should be reduced to twentyfive per cent. An amendment was also proposed by Mr Crawford increasing the duty on iron, and one by Mr Davis of Massachusetts augmenting the duty on woollen manufactures, all of which were rejected. Various other amendments were proposed, and after a long examination, and several modifications in committee of the whole, the bill was reported to the House on the 21st of June.

An amendment was here made

increasing the ad valorem duty on woollens from thirtyfive to forty per cent, yeas 113, nays 75. The provision diminishing the duty on woollens of less value than forty cents the square yard to five per cent, was amended, so as to comprehend only milled and fulled cloth, known as plains or Kerseys and Kendall cottons, yeas 128, nays 69. The duty on manufactures of silk and worsted was put at ten per cent ad valorem, being the same as on worsteds, without opposition, and the ad valorem duty on woollen yarn was increased from thirtyfive to fifty per cent, yeas 110, nays 79. The duty on manufactures of silk was fixed at eighteen per cent, yeas 133, nays 51. An amendment, which had been carried in the committee, reducing the proposed duty on salt from ten to five cents per fiftysix pounds was rejected, yeas 87, nays 101. The duty on china, earthen and stone ware, and manufactures of marble, was fixed at the old rate, and the duty on blank books, carriages, harness and leather manufactures, cabinet wares, hats and caps, was changed from twentyfive to thirty per cent ad valorem, and on boots and boottees fixed at one dollar fifty cents per pair, yeas 105, nays 78. Mr Jarvis then moved to exempt fossil and crude mineral salt from duty, which motion was rejected, yeas 96, nays 97; and the duty was fixed at four cents per bushel, on motion of Mr Reed, yeas 93, nays 79. Mr Mc Duffie now moved to reduce the duty on cottons of less value than fifteen cents the square yard, to twelve and a half per cent ad va-

lorem. Before taking the question the House adjourned, and the next day, June 23d, a motion was made to reconsider the amendment concerning fossil salt; but the House refused to reconsider, yeas 84, nays 98. The question recurring on Mr Mc Duffie's amendment, it was rejected, yeas 73, nays 115. Mr Mc Duffie now moved an amendment abolishing the discrimination between rolled and hammered iron, but the House rejected it, yeas 73, nays 114. Mr Davis then moved an amendment increasing the duty on woollens, but the House adjourned without taking the question. On Monday, June 25th, the amendment came up again for consideration, and after an ineffectual attempt to amend it, it was rejected, yeas 70, nays 119. A motion was then made by Mr Reed of New York to reduce the duty on silk manufactures to ten per cent ad valorem and was carried, yeas 108, nays 86. Mr Adams now moved to confine the duty of five per cent ad valorem to woollens of less value than thirtythree cents instead of forty cents per square yard; but it was rejected, yeas 86, nays 100. It was then renewed on thirtyfive cents, and agreed to, yeas 102, nays 85.

On the 26th of June the bill being taken up, a motion was made by Mr Alexander to strike out the section allowing a bounty or drawback on vessels built in the United States, which was lost, yeas 86, nays 88. After an unsuccessful attempt to alter the duty on iron and steel wire, a motion was made by Mr Reed of

New York to reconsider Mr Alexander's motion, and it was carried by the casting vote of the Speaker. On the questions, however, to strike out the drawback on vessels it was rejected, yeas 93, nays 97. Mr Thompson then moved, that a similar drawback be allowed on all iron used in the construction of agricultural implements, which was rejected, yeas 42, nays 135. A motion made by Mr Bates of Massachusetts to restore the duty on hosiery, carpets, blankets, binding and gloves to the former rate, was rejected, yeas 86, nays 102. A motion of Mr Carson similar to the one moved by Mr Thompson met with the same fate, yeas 37, nays 124. On the 27th of June Mr Adams moved to increase the duty on hosiery, carpets, blankets, binding and gloves from twentyfive to thirty per cent, but the House rejected the motion, yeas 90, nays 94. Mr Cambreleng then moved to reconsider the motion of Mr Alexander, striking out the bounty or drawback upon vessels American built. The motion was objected to as out of order, the House having already reconsidered it, but the speaker decided it to be in order, and the House upon appeal confirmed his decision, yeas 99, nays 84.

The House then agreed to reconsider it, yeas 97, nays 90, and after a proposition made by Mr White to change the mode of allowance from so much per ton to three fourths of the duty actually paid (which proposition was rejected, yeas 65, nays 119,) the section was stricken out, yeas 98, nays

97. Mr Verplank then moved to change the duty on sail duck from ten cents per square yard to fifteen per cent ad valorem, which was agreed to, yeas 98, nays 94. Mr Connor now moved to strike out the valuation of the pound sterling at four dollars and eighty cents, which was rejected, yeas 79, nays 114. Two amendments, were then proposed by Mr Marshall. The first to raise the duty on hemp from thirtyfive dollars to forty per ton was carried, yeas 98, nays 93, and the second, to raise the duty on cotton bagging from three and a half to four cents the square yard was lost, yeas 96, nays 100. Several amendments were now proposed by Mr Adams, the first raising the duty on Brussels carpet from fifty cents to 63 cents the square yard was carried, yeas 98, nays 92, the second to raise the duty on Venetian carpeting from twentytwo and a half to forty cents was lost, yeas 93, nays 96, and the third changing the duty on flannels and baizes from an ad valorem duty of 35 per cent to a specific duty of 16 cents the square yard was carried, yeas 93, nays 91. The previous question then being demanded by Mr White of New York, and duly seconded, was carried, yeas 98, nays 85, and the bill was ordered to a third reading, yeas 121, nays 65.

The next day the previous question was again ordered by a vote of 132 to 60, and the bill having passed, yeas 132, nays 65, was sent to the Senate for confirmation. It was taken up in that body for consideration on the third day of July; when it was

amended by confining the five per cent duty on Kendall cottons, to such as weighed not less than 16 ounces to the square yard, yeas 24, nays 22. It was further amended by placing Wilton and treble ingrained carpeting on the same footing with Brussels, yeas 24, nays 21, by making the duty on common ingrained and Venetian carpeting thirtyfive cents the square yard, yeas 28, nays 18. By making the duty on merino shawls fifty per cent, yeas 24, nays 19. An amendment was also proposed to prevent a less duty on flannels than fifty per cent, but Mr Hayne having succeeded in substituting 'more' for 'less' yeas 24, nays 22, the amendment was rejected, yeas 19, nays 26. On the 5th of July the subject was resumed, and the bill was further amended by raising the duty on oil cloths from twelve and a half to fifteen per cent; by reducing the duty on floor matting from thirty to five per cent, by increasing the duty on plated wire from five to twentyfive per cent, yeas 22, nays 21; by making the duty on tacks, brads, and sprigs of sixteen ounces to the 1000, five cents per thousand instead of per pound, yeas 28, nays 15; by exempting manufactures of lead from the duty of twentyfive per cent yeas 33, nays 13; by establishing the same duty on manufactures of iron partly finished, as if entirely finished, and on vesse's of cast iron with wrought iron handles, as if made entirely of cast iron, yeas 25, nays 20; by changing the duty on sail duck from fifteen per cent ad valorem to eight cents the square yard, except on ravens



duck, which was fined at four cents the square yard, yeas 23, nays 22, by establishing a duty of eighteen cents each on felt or wool hats, yeas 24, nays 16; by increasing the duty on brown sugar and syrup from two and a half to three cents per pound, yeas 24, nays 16; by making coffee duty free, yeas 31 nays 14; by making tea duty free, yeas 28, nays 15; by establishing a duty of two cents per pound on old lead and scrap lead; by excepting cordage from the duty on manufactures of hemp, and flax, yeas 26, nays 16; by striking out the increased duty on musical instruments, yeas 24, nay 17; and by striking out a provision, by which all articles not enumerated, that paid a higher ad valorem duty than fifteen per cent should after March 3d, 1833, pay fifteen per cent, yeas 24, nays 20. On the 6th of July the bill was further amended by striking from the list of free articles, corks, manufactured marble, hair cloth seatings, millstones, sextants, quadrants and spyglasses, and various unimportant articles were also inserted in that list. The duty on fossil or mineral salt was reduced from four cents a bushel to a duty of fifteen per cent ad valorem, and a provision inserted, providing that no drawback should be allowed on a less quantity of cordage exported than five tons.

An amendment was now proposed, by which woollen cloths of less value than fifty cents are to be valued at fifty cents the square yard, and when of greater value than fifty cents and less than two dollars and fifty cents, to be val-

ued at two dollars and fifty cents, and those, as well as those of greater value are to be all subjected to a duty of thirtyfive per cent ad valorem.

The second minimum was stricken out on motion of Mr Hayne, yeas 24, nays 23; and on motion of Mr Chambers the duty on that class of woollens between fifty cents and two dollars and fifty cents, was raised to 60 per cent ad valorem, yeas 24, nays 23. The question was then divided and the first minimum was rejected, yeas 23, nays 25.

The residue of the amendment was then rejected by the casting vote of the Vice President, yeas 24, nays 24.

The duty on woollens was then on motion of Mr Webster, raised from fifty to fiftyseven per cent, yeas 25, nays 23. On the 7th of July the subject was resumed, when the duty on cotton bagging was raised, on motion of Mr Clay, from three and a half to four cents the square yard, yeas 25, nays 21. The duty on japanned saddlery was raised from ten per cent to twentyfive per cent, yeas 22, nays 21. The duty on slates was raised from 25 to 35 per cent. Palm leaf hats, which were fixed at a duty of thirty per cent, were stricken out of the bill, yeas 25, nays 22. Several amendments were also proposed which were rejected, as to raise the duty on agricultural implements, yeas 21, nays 25; to reduce the duty on sewing silk; to strike out the cotton minimums, yeas 17, nays 27; to change the duty on flannels to an ad valorem duty of thirty per cent, yeas 18, nays 28;

to reduce the duty to five cents per bushel, yeas 22, nays 24 ; to strike out the provision placing articles made of steel, rod, hoop, bolt, bar iron, or iron wire on the same footing with the raw material, yeas 20, nays 26 ; to strike out the provision requiring the cash duties on woollens, yeas 17, nays 27 ; to reduce the duty on goods intended for the Indian trade, yeas 20, nays 26. On the 9th of July the bill finally passed, yeas 32, nays 16. The bill and amendments were then sent to the House for concurrence. The House then rejected the following amendments, viz. That, limiting the low duty on Kendall cotton to such as should weigh not less than sixteen ounces the square yard, yeas 73, nays 97 ; increasing the duty on woollens from fifty to fiftyseven per cent, yeas 84, nays 91, changing the duty on sail duck, yeas 69, nays 98 ; the duty on cotton bagging yeas 77, nays 95 ; increasing the duty on brown sugar and syrup, yeas 74, nays 93 ; increasing the duty on slates, yeas 63, nays 90 ; increasing the duty on japanned saddlery, and that striking out the section reducing all non-enumerated articles paying a higher duty than fifteen per cent to fifteen per cent, and that striking unmanufactured marble from the free list.

The other amendments were agreed to with some amendments, which were not important. The two Houses were now at issue, and the Senate asked a conference, yeas 26, nays 21, which was granted, and Messrs Wilkins, Dickerson, and Hayne were ap-

pointed on the part of the Senate, and Messrs Drayton, Hoffman, Davis of Massachusetts, Gaither and Horn on the part of the House, to manage the same. In this committee Mr Hayne so dexterously managed his colleagues, as to induce them to relinquish all the amendments of the Senate, and a report was accordingly made to that effect. As the majority of the Senate felt that their committee had not fairly represented their views in the conference, some opposition was made to the report, and Mr Bell moved the indefinite postponement of the bill. It was not thought expedient to adopt that course, and the motion was rejected, yeas 10, nays 38 ; and the Senate, from a desire to settle this long agitated question, was induced to recede from its amendments. The act which was now passed, provided for a great reduction of the revenue and for no small diminution of the duties on the protected articles of domestic manufacture. It did not indeed go so far as the bill proposed by the secretary of the treasury, which, while it spared the iron business, aimed a fatal blow at the woollen interest ; still less did it sanction the sweeping destruction of domestic manufactures, which was sought by the bill reported by the committee of 'Ways and Means.' On the contrary, it was a direct admission of the principle of protection, and it was so regarded by all parties. It was however a great concession on the part of the friends of the 'American system,' to the advocates of 'Free trade,' and as such a general expectation



prevailed, that it would be received by the dominant party in South Carolina, and that a temporary calm at least would succeed the agitation upon this exciting topic.

Different views, it appeared, were entertained by the leaders of that party, and the very day after the passage of this act, the representatives of South Carolina, who thought 'Nullification' the rightful remedy, met at Washington, and published an address to the people of South Carolina on the subject of the tariff. In that address, after reviewing the policy of the government, they proceed to assert, that in the act just passed the duties upon the protected articles were augmented, while the diminution was made only in the duties upon the unprotected articles; that in this manner the burthen of supporting the government was thrown exclusively on the 'Southern States, and the other states gained more than they lost by the operation of the 'Revenue system.'

The address then goes on to say, that,

As a necessary consequence of this state of things, the productions and property of the planting states, are absolutely subject to the control of an irresponsible and despotic majority, who have converted the whole fiscal operations of the government into the mere means of levying contributions from the industry of those to nourish and sustain the rival industry of the manufacturing states. The substantial right of property, in the plantations of the south, is in the majority, who exercise this irresponsible power of exaction, and those who vainly imagine they are the proprietors, and are in truth mere stewards, receiving just such annual income, as this proprietary government, the majority, may choose to allow them. The natural effect of this anomalous action of the government is that reckless appropri-

tion of the public money for every purpose, whether constitutional or unconstitutional, by which the legislation of congress has been characterized for several years past, and never to a more alarming extent than during the present session. This has been strikingly exemplified by the establishment of a grand pension system, embracing all the volunteers and militia who served six months during the revolutionary war, without any regard to their pecuniary circumstances, and involving the annual expenditure of several millions of dollars; by new extravagant appropriations for internal improvements of a mere local nature, to an extent altogether without example; by an attempt, successful in one branch of the legislature, and evidently destined to succeed in both, to distribute annually among the states three millions of the public revenue; and, finally, by an aggregate increase of the appropriations of the present session beyond the estimate of the treasury, and beyond the ordinary expenditures of the government, of not less than five millions of dollars.

And it concludes thus:

They will not pretend to suggest the appropriate remedy, but after expressing their solemn and deliberate conviction that the protecting system must now be regarded as the settled policy of the country, and that all hope of relief from congress is irrecoverably gone, they leave it with you, the sovereign power of the state, to determine whether the rights and liberties which you received as a precious inheritance from an illustrious ancestry shall be tamely surrendered without a struggle, or transmitted undiminished to your posterity.

The sentiments promulgated in this address developed the views of the nullifiers. They had determined to subvert the constitution of the United States, unless they could make the policy of the government subservient to their views; and they relied upon the jealousy felt in the planting states against the action of the federal government, as the means to accomplish their designs.

These states had long manifested a hostility to the tariff pol-

icy, and it was supposed, that they would not be very scrupulous as to the means by which it was to be overthrown.

The abstract principle of nullification had already been deliberately sanctioned by Virginia, and carried into practical operation by Georgia, with the approbation of the President; and it was naturally concluded, that an energetic application of the principle to the revenue system would be sustained by the planting states generally; and if not winked at by the administration would not be opposed either with energy or consistency. Meetings accordingly were held in South Carolina denouncing the tariff, which had just received the sanction of congress and pledging the persons attending, to support the state government in any measures it might adopt to resist it. Strong efforts were made to excite the people of the state against the general government, and notwithstanding the exertions of a respectable portion of the community, who remained faithful to the Union, they succeeded in obtaining a majority in both Houses of the legislature.

As soon as this was ascertained, Governor Hamilton issued a proclamation convening the legislature, which met at Columbia on 22d of October, 1832. Immediately upon its assembling, the subject of the tariff was taken into consideration, and a bill was reported authorizing a convention to meet at Columbia on the 19th of next month. This bill was hurried through both houses, and finally passed on the

25th of October. The Senate divided on its passage, 31 affirmative, 13 negative. The House 96 affirmative, 25 negative.

After having passed that bill, which was done before the commencement of the legislative year for which the legislature was chosen, that body adjourned to meet on the 4th Monday of November. The convention met at the time appointed, and the Governor of the state was elected President of that body, having 131 out of 156 votes.

It was obvious from the character of the members, that they had met to act without delay and without deliberation, in reference to the tariff. The annual meeting of Congress was at hand, and if any impression was to be made upon that body, it could only be done by prompt and decisive movements. Upon the people of the country at large no impression could be made. They had been so long threatened by individual states when any local excitement prevailed, that they looked upon these vehement resolutions of dissolution and secession as unmeaning bluster. The cry of wolf, wolf, was now unheeded, and with a composure, which was entirely unexpected to the nullifiers, the yeomanry of the country calmly looked upon the measures, which the government of South Carolina was taking to assert her reserved rights as a sovereign state. A general sentiment pervaded the Union, that it was better to appeal to the power of the government to enforce the laws, than longer to encourage a spirit of insubordination, by yielding to demands,

which, originating in a feeling of arrogance, were rendered more unreasonable by concession. Still, however, all hasty movements were deprecated, and so long as the nullifiers confined themselves to discussions and resolves, any interference on the part of the general government would have been deemed improper. Nothing but actual resistance to the laws of the United States could justify such interposition, and although a warm sympathy was felt towards that portion of her citizens, who, in spite of denunciation and violence remained faithful to the Union; no steps could be taken to relieve them from their perilous situation, until some overt act had brought the nullifiers within the reach of the law.

The time of forbearance, however, was now rapidly passing away.

The committee, to whom was entrusted the duty of reporting what steps should be taken by the Convention, recommended the passage of an ordinance, which declared all the acts of Congress imposing duties on imported goods and more especially those of May 19, 1828, and July 14, 1832, to be null and void within the State of South Carolina. It also prohibited the authorities of the State or of the United States from enforcing the payment of duties within the state, and enjoined it on the legislature to pass all acts necessary to prevent the enforcement of the tariff laws from and after the first of February, 1833. It further provided, that no appeal should be permitted to the Supreme Court

of the United States in any question concerning the validity of the ordinance or of the laws passed to give effect thereto; that the state courts should proceed to execute and enforce their judgments, notwithstanding such appeal, and that any person attempting to appeal should be deemed guilty of a contempt of court. It also ordained, that all civil and military officers in the state should take an oath truly to obey, execute, and enforce the ordinance, and all laws passed pursuant thereto; and in case of refusal, the office should be deemed vacant and another person appointed instead of the one so refusing; and all jurors empanelled in any cause, where the ordinance and the laws passed under it should be brought in question, were required to take the same oath; and it concluded with a declaration, that any attempt on the part of the federal government to reduce the state to obedience, or to enforce the revenue laws, otherwise than through the civil tribunals, would be deemed inconsistent with the longer continuance of South Carolina in the Union, and that the people of the state would forthwith proceed to organize a separate and independent government. By this ordinance the Rubicon was passed, and the state government, forthwith proceeded to take the necessary steps to carry it into effect.

The legislature, which met directly after the adjournment of the Convention on the 27th of November, passed the laws required by the ordinance. The first of these acts, was one authorizing the



consignee or owner of imported goods, which might be seized or detained for the non-payment of duties imposed by the laws of the United States, to replevy the same and to proceed as in all cases of unlawful seizure or detention of property. In case of refusal to deliver the goods, or of their removal so that the writ of replevin could not be executed, the sheriff was authorized to distrain goods of the person so refusing or removing them, to double the amount of the goods in question, and to hold the same until the goods should be delivered to the sheriff. That officer was also authorized to prevent any recapture or seizure of the goods replevied, under the pretence of enforcing the revenue laws, and to call in the posse comitatus for that purpose.

Persons paying duties were authorized to recover them back with interest. Any arrest under the revenue laws was declared unlawful, and the persons arrested allowed to maintain an action of false imprisonment, and all sales of property under those acts were to be deemed void, and as not divesting the title of the original owner.

Judicial officers permitting any copy of a record to be taken for the purpose of appealing to the federal courts, were to be punished by fine and imprisonment. Any persons disobeying the replevin process, or removing the goods to avoid its execution, or attempting to recapture, or to seize goods taken under it, were to be liable to the same punishment. The keepers of pub-

lic goals were prohibited from detaining prisoners under any process under the revenue laws, and all persons were prohibited under severe penalties, from letting their houses to serve as a goal for the detention of any person imprisoned under the revenue laws. An act prescribing the test oath to judges and jurors, and all civil and military officers as ordained by the Convention, was also passed; and an additional act authorizing the governor to call the militia into service to resist any attempt on the part of the government of the United States to enforce the revenue laws; and to render the resistance of the state effectual, he was empowered to call out the whole military force of the state and to accept of the services of 'Volunteers' for the same purpose.

Ten thousand stand of small arms and the requisite quantity of military munitions were ordered to be purchased, and any acts done in pursuance of that law, were to be held lawful in the state courts.

These proceedings by the party, that had obtained possession of the state government, brought on an issue between the state and federal governments, that could no longer be neglected. The very existence of the government depended upon its decision. South Carolina had set at defiance the authority of the general government, and declared, that no umpire should be admitted to decide between the contending parties.

It had in its capacity as a sovereign state decided the question, for itself; and its decision could be



reversed only by superior force. In taking this stand, the nullifiers apparently had not perceived, that although their principles were precisely those, which Georgia had carried into effect; the subject matter more directly effected the existence of the government. Five sixths of the Revenue were derived from the customs, and the abolition of the duties in one state would necessarily destroy the revenue system, and of course suspend the operations of the federal government. While the nullification of Georgia only tended to bring the federal government into contempt and weakened the bonds of the Union; that of South Carolina at once severed those bonds and arrested the action of the government.

The evils of the former were chiefly in prospect: those of the latter were immediate and required a present remedy. At such a crisis the President felt that there was no room for hesitation. A temporising policy must have been fatal to the government, that he was chosen to administer and whose laws he had sworn to execute. The difficulty must be met, not only to save the Union from being broken up, but to protect those citizens of South Carolina, who still adhered to its standard from the horrors of civil

discord. In such an emergency, the subtilities and refinements of nullification could not be observed, and with a fearless disregard of all remarks upon his inconsistency, the President determined to come at once to an issue with the nullifiers; to place the powers of the government upon the broad ground, that the federal judiciary was the only proper tribunal to decide upon the constitutionality of its laws: and to enforce the revenue acts with an entire disregard to the pretended rights of sovereignty, which were assumed by the state of South Carolina.

With that view all the disposable military force was ordered to assemble at Charleston, and a sloop of war was directed to repair to that port, in order to protect the federal officers in case of necessity in the execution of their duty. An eloquent and energetic proclamation was also issued, plainly and forcibly stating the nature of the American government, and the supremacy of the federal authorities in all matters entrusted to their care, and exhorting the citizens of South Carolina in glowing language, not to persist in a course, which must bring upon their state the force of the confederacy, and expose the Union to the hazard of dissolution.

## CHAPTER V.

*Extent of public Lands — How acquired — States formed from public Territory — Quantity ready for Sale — Costs and Receipts — Mode of Sale — Details of System — Law requiring Cash Payments — How Surveyed — Policy of the United States in settling public Lands — Entire success — Attempt to change that policy — By donations to settlers — By donations to the States — By reducing the price — Examination of proposed policy — Internal Improvement — An inquiry ordered into the expediency of modifying the System — Mr Clay's Report — Report referred — Report from Committee of public Lands — Debate in Senate — Bill passed by Senate — Proceedings in House — Report of Committee on public Lands — Bill postponed.*

THE vast extent of territory belonging to the federal government renders it a subject of great importance and interest in the deliberations of Congress.

This territory was acquired either under the treaty of 1783, the Louisiana treaty, or the Florida treaty. That acquired under the treaty of 1783, was claimed as within the limits of some of the colonies; but the old congress contended, that it was acquired from Great Britain by conquest; and, finally, the several states claiming the public domain, formerly known as the northwest and the Mississippi territories, were induced to relinquish their pretensions and execute deeds of cession to the United States.

In this manner the federal government became possessed

of public lands amounting to 230,031,981 acres, which have, since the adoption of the constitution, been formed into the states of Ohio, Indiana, Illinois, Alabama and Mississippi, leaving still a territory under a territorial government called Michigan territory, of 24,939,870 acres and the Huron Territory of 56,804,834 acres in extent.

Besides this, there is the old province of Louisiana extending from the Mississippi river to the Pacific ocean 850,000,000 acres in extent, which was purchased of France for \$15,000,000 under the treaty of 1803. From this territory two states have already been created, viz. Louisiana and Missouri, and one territory called Arkansas, leaving a territory of about 750,000,000 acres

in extent, yet to be occupied as new states. In 1819, the Floridas were ceded to the United States by Spain for \$5,000,000, adding 35,286,760 acres more to the public domain.

Of this extensive territory a large portion is held in sovereignty and propriety; being all which is not formed into states, except an inconsiderable portion purchased and occupied by settlers, under the territorial governments of the United States. Of the residue, which has been formed into states, a large portion is still held in propriety by the federal government, viz. about 114,467,260 acres, the rest having been sold to settlers. The sovereignty of the whole of this portion is vested, (subject to the limitations of the federal constitution) in the respective state governments constituted over it.

Before the public lands are offered for sale, the title of the Indians is extinguished by treaty, — the federal government generally stipulating to pay an annuity, for the lands relinquished by the tribes.

On the thirtieth of September, 1831, the Indian title had been extinguished to 227,293,884 acres, which were comprehended within the new states above named, or in the territories of Michigan, Arkansas and Florida.

There were 113,577,869 acres, in the same states and territories, to which the Indian title was not extinguished.

Besides this there are 750,000,000 acres, beyond these limits, belonging to the United States, to which the Indian title

is unextinguished, making a public domain of 1,090,871,753 acres in extent: of which 119,748,812 acres were surveyed and ready for sale on the first of January 1826, a still greater quantity in 1830.

The cost of acquiring and surveying the public lands up to the 30th of September 1831, amounted in the whole, to \$48,077,551, and the proceeds of sales up to the same period had been only \$37,272,713. The government at that time had not been reimbursed: but the large extent of territory then ready for sale, and the increasing demand promised a speedy reimbursement — the sales in 1831 amounting to \$3,557,024. A large quantity too had been appropriated to public purposes, which would more than make up the difference between the cost and the receipts.

To Ohio, Indiana, Illinois and Alabama 2,187,665 acres had been given for internal improvements in those states; 8,460,538 acres had been set apart for the support of common schools and colleges; and 89,605 acres had been set apart for religious and charitable institutions, 21,589 acres had been given to the new states for seats of government, and 298,288 acres had been reserved as containing salt springs.

Under the system adopted by the federal government for the disposition of the public lands, they are surveyed at the expense of the United States, and divided into townships of six miles square, and subdivided into thirtysix sections of one mile square, or 640 acres each.

After reserving the salt springs, lead mines and one section in each township, which is set apart for the support of schools, the residue is offered for sale at public auction under the proclamation of the President. In case the section offered does not bring one dollar twentyfive cents per acre, it is not sold; but is held by the government, subject to be taken at any time afterwards at private sale at the minimum price of one dollar twentyfive cents per acre, which is paid at the land offices of the district, in which the land is situated.

There are now fortytwo land offices, each under the superintendence of a Register and Receiver, who are appointed by the President and Senate of the United States. Until 1820, a credit was allowed on all purchases of public lands; but at that period it was found, that the influence of the land speculations was strong enough, to procure the passage of an act annually extending the terms of payment and remitting the interests.

In time this influence would have become so great, as to endanger the proprietary interests of the national government in this territory, and perhaps have destroyed the public tranquillity. With a foresight which reflects lasting honor on his character as a statesman, Rufus King brought forward a law requiring cash payments for the public lands; and relieving the speculators, by permitting them to relinquish the lands then held by them to the government. At the same time, the minimum price was reduced

from two dollars to one dollar twentyfive cents per acre.

The most beneficial effects have resulted from this change. The public debtor has been relieved, and the revenue from this source has increased instead of diminishing. The mode of surveying the public land does not permit any disputes, concerning the title to any particular tract. Several meridian lines are laid down, each forming the base of a series of surveys; so that the whole territory is divided into squares of one mile each, called sections, thirtysix of which form a township. The sections are divided into quarters and half quarters, and a settler can purchase a farm of eighty acres, the minimum price of which is one hundred dollars. About forty townships are surveyed in each land district annually, and the annual expense of surveying is about \$70,000. Sometimes however, a greater appropriation for surveying is made, and a larger quantity of land exposed to sale.

When settlers occupy the public lands, as they often do, acts are occasionally passed granting them the preëmptive right, in case the lands do not bring more than the minimum price at public sale. Under this judicious mode of disposing of the public domain, the western and southwestern country has been gradually settled by a hardy and industrious race of farmers, who were protected in their civil rights by territorial governments established by the federal government; until they became sufficiently numerous to



be received into the confederacy as sovereign states. This has been done under the authority of congress — an act being passed authorizing the formation of a State constitution, republican in its character, in which are inserted certain fundamental conditions in relation to the rights of the federal government to the public territory — to the navigable rivers — salt springs — and to the lands granted for the purposes of education, internal improvement and for military services. In this manner the confederacy has been increased since 1802, by the admission of Ohio, Indiana, Illinois, Missouri, Mississippi, Louisiana and Alabama — states nearly equal in extent to the old thirteen states, that originally formed the Union, and possessing a population of 2,238,733 souls. Ohio the oldest of these new states, now only thirty years old, is the fourth state of the Union in point of numbers, having 937,679 inhabitants, and its largest town, Cincinnati, has 26,515 inhabitants.

As settlers are prohibited from occupying lands, to which the Indian title is not extinguished, they are compelled to settle within the limits of some territorial government. They are thus formed into social communities, and accustomed to the action of legal tribunals, which are maintained at the expense of the United States, instead of being lawless wanderers through a boundless wilderness, and distinguished from its original inhabitants merely by their complexion. In the habit of yielding obedience to the laws of the federal government, before

they are authorized to form a state constitution, they are more easily led to pay that qualified obedience to those laws, which is required after their admission into the Union. The confederacy is thus peacefully and gradually extended into the heart of the continent; and new states are added to it, as soon as their population becomes sufficiently numerous and dense to bear the expense of a state government.

The policy of the government thus tends to keep the settlers from scattering themselves too sparsely over the wilderness; while it affords, by the low price of the public lands, sufficient inducement for the enterprising to undertake new settlements; and by its liberal policy in making appropriations for internal improvement and education, prevents their feeling too sensibly their removal from the older abodes of civilized man.

The public domain is rendered more valuable by this mode of disposing of it; the new states are civilized and educated at the same time, that they are settled; an outlet is presented for the increasing population of the older states, so that it cannot, for an indefinite period, press upon the means of subsistence; and care is taken, that the new settlements do not advance rapidly, and so far into the wilderness, as to forget their connexion with the Union, and to be thus tempted to form themselves into independent communities.

Such are the chief considerations, which recommend the policy hitherto adopted by the United States in their administration

of the public territory. Its complete success could scarcely have been looked for by those, whose sagacity in framing, and untiring exertions in establishing that policy, entitle them to the gratitude of all succeeding generations. Its effects, however, have even now, scarcely developed themselves. The public lands which have been sold, do not form one tenth of the whole domain, and although they are at present of greater value, the same population which gave them that additional value by extending itself, must impart the same and even a greater value to that remaining unsold. It is easy therefore to estimate the vast importance to the interests of the country, both in present and future, of all questions affecting the public lands. A territory four times as large as the old Atlantic states, and containing double the number of acres in the twentyfour states now composing the confederacy, with a soil unsurpassed for fertility, is yet to be occupied for the purposes of civilized man. That extensive and fertile territory is owned by the federal government, representing the people of the United States as one nation, and it is entrusted to that government, to be appropriated in such manner as shall best promote the national welfare.

The specific lien on its proceeds created by the national debt, is removed by the liquidation of that debt, and nothing remains to prevent the disposition of the public lands, according to the wisdom of Congress. In anticipation of the removal of this

lien an effort has been made, to entirely change the policy hitherto pursued by the government. Instead of selling the land as it is wanted, by which course that which is now valueless will be reserved for posterity, and that which is now sold will be occupied by a population growing up under the influence of civilization and the fostering care of the government: it has been proposed to invite Europeans, to migrate to the Western States, by donations of land to actual settlers. Others have proposed to give the lands to the states, within which they lie, for a nominal consideration. It has also been proposed to reduce the minimum price of lands, in order to hasten the settlement of the country. These are some of the propositions, that have been lately submitted to Congress as substitutes for a policy, which has produced such happy and extraordinary results as the one hitherto pursued.

They are all strongly marked with improvidence, and with a complete neglect of the lessons of the past and of the wants of posterity. By donations to the states of the lands lying therein, great injustice would be done; as the old Atlantic states would get nothing, and the states of Ohio and Indiana comparatively little, while the new states of Mississippi, Missouri and Illinois would each receive between thirty and forty millions of acres. By selling them to these states for an adequate consideration, a debt would be created beyond their ability to pay, and in the process of time the debt would be can-

celled, or the affections of the debtor states alienated by an attempt to coerce payment.

The only pretence of reason for a modification of the policy is, that by lowering the price, and by donations to actual settlers, migration from Europe would be encouraged and the settlements of the West be hastened. This argument is founded upon the proposition, that it is better to have a numerous, than a happy and prosperous people. If the inhabitants of the United States were so few in numbers, as to be unable to protect themselves from foreign aggression, there might be wisdom in inviting migration from Europe. This, however, is no longer the case. A nation that has now 13,000,000 inhabitants and doubles itself in less than a quarter of a century, by its natural increase, needs no accession from abroad to swell its numbers. It has within itself the means of filling the wilderness with a homogeneous population; and it should be careful that the stability of our political institutions be not endangered, by too rapidly filling up the distant settlements with inhabitants, who from ignorance, foreign attachments, and early prejudices are unfitted to administer and sustain our peculiar system of government.

There is no necessity of settling the West faster than the natural increase of the nation will do it; and the descendants of American citizens, who have been nurtured in the habits of devotion to the Union, and of respect to its laws, will furnish a better

stock, than those who have been driven by improvidence or necessity from their native soil, to a country of whose institutions and laws they are utterly ignorant, and to which they can consequently, bear no well founded attachment. The public domain now presents territory, where the surplus population of the Union can extend itself for centuries to come; and from its extent and fertility it affords a strong security, that the American people will not be forced by density of population to that extremity of misery and crime, which is exhibited in Ireland and in the more populous counties of England. In extending themselves slowly over the continent, they will do it surely.

Time will be allowed for their political institutions to take root and to fasten themselves upon the attachments of the people. The federal government, known to them as first organizing them into political communities, and as protecting them from the inroads of savages and from intestine commotions, will be regarded with affection and confidence. They will become strongly bound to the Union by ties of early association, and the descendants of emigrants from the pleasant hills of New England, the verdant banks of the Hudson, and the sunny shores of the Chesapeake, when associated in new communities and states beyond the Rocky Mountains, will turn with feelings of respect and fraternal attachment towards the glorious scenes of that great political drama, that opened upon the field of Lexington, and received its crowning triumph upon the

plains of Yorktown. This brilliant prospect, however, cannot be realized through a policy, which would rapidly fill this vast territory with a population, driven by the improvidence of their fathers, or the cruelty of their governments from the shores of Europe. Ignorant, poor, discontented and unfitted to struggle with the difficulties of the wilderness, they would at best form a heterogeneous mass with all their early associations in favor of different institutions and other countries.

Here would be the elements of future discontents, and the materials for any advocate of disunion and separation to work with. Instead of proving a benefit, it would be a serious evil to the country to have the public territory hastily filled up by European emigrants, and this evil would be augmented by their being allowed to settle without order, and in distant and unprotected settlements, throughout the public domain. This refusal to bestow these lands as a bounty to invite emigrants to the United States is entirely consistent with hospitality to those, who seek our shores as an asylum from political persecution, and to those who come here in search of wealth or happiness. They may be safely admitted to the enjoyment of all civil rights, for such is the privilege of all living under the political institutions of the United States ; but it is not necessary, in order to avoid the charge of inhospitality and illiberality to offer the public territory, purchased by the blood and treasure of our fathers, to serve as a poor house to the crowded

kingdoms of Europe. Still less is it advisable to divest the federal government of its control over that territory, and to permit it to be occupied by settlers unconnected with each other, subject to no established government, and unable and unwilling to bear the expense of organizing one for themselves. This might fill up the western wilderness, but it would do so by substituting the white for the red savage, who would at some future day punish our posterity for the fatuity of their fathers. A policy fraught with such consequences, never should be substituted for the wise and judicious policy, which has hitherto presided over the settlement of the western country. On the contrary, that policy ought to be fully carried out. The obstacles hitherto interposed by the national faith, to the general application of the proceeds of the public lands, having been removed by the discharge of the public debt, Congress is now at liberty to apply them in facilitating the intercourse between the states already settled, and in augmenting the value of the territory belonging to the federal government, by opening roads and making canals through the public domain. In this manner full returns will be received for the capital expended, and the nation will feel the benefits of this enlightened policy in the increased revenue from this source. By a judicious application of capital the value of land may be increased to an extent, that can scarcely be calculated ; and though its cultivation cannot in any way be so well promoted



as by entrusting it to individual owners, its value as a country will be more rapidly augmented by a system of internal improvement executed by the capital of the government, directed by science, than by roads laid and constructed with the feeble means at the disposal of the pioneers of civilization.

The partial adoption of this policy has already conferred innumerable benefits upon the Western states, and the towns and villages along the route of the great national, or Cumberland, road, affords a practical commentary upon its wisdom. Lands, which without that avenue would have been inaccessible, now meet with a ready sale; and the treasury is as much benefited by the increased revenue, as the country is by a numerous, industrious, and orderly population, whose fidelity to the government is better secured by that road, than by a formidable army. Another instance of judicious expenditure of the same character may be seen, in the efforts now making to remove the raft composed of floating trees, that has hitherto hermetically closed the Atchafalaya or Red River. The government alone is competent to the opening of this passage; and when cleared, a large body of fertile land is at once brought into market, adjacent to districts now in a course of settlement, that will repay a thousand fold the expenditure, that connects it more directly with the civilized world. A larger application of national revenue to similar objects will produce proportionable results.

Taking in at one view the whole country, the government can more easily cause roads and canals to be made, between the most important points than individual settlers, living at a distance from each other, who, although feeling the inconveniences of carrying their produce to market, through forest paths, can only, after the lapse of many years, be taught the necessity of uniting their exertions to effect some obvious public improvement. The wilderness will then be settled according to a consistent and well digested plan, and its increased value will amply repay the expenditure. It will do more than this; the revenue obtained from its sales may be applied to the internal improvement of the old states, and the same advantages may be bestowed by a similar policy upon the states now forming the confederacy. The whole country is still in a course of settlement, and those who observe how easily that is effected, when one mind gives direction and unity to the efforts of the multitude, which before was vainly attempted, need not be convinced of the expediency of placing the construction of our principal roads and canals, under the direction of scientific and experienced engineers employed by the national government.

The useless expenditure of millions of dollars will thus be saved; the resources of the country more rapidly developed; the distant extremities brought into closer connexion with the centre, and all parts bound together by the strong ties of mutual dependence

These considerations were generally deemed conclusive, against any essential modification of the policy of the federal government in disposing of the public lands. So much clamor, however, had been excited by speculators and designing demagogues, that a thorough examination of the whole system was ordered at this session in congress. In some of the new states the spirit of cupidity had been excited, and after insinuating, that they had a right to public lands in consequence of their being erected into sovereign states, their legislatures ended by asking congress, to cede them as a boon to the states within which they lie. The inquiries, which were ordered preliminary to modifying the tariff, afforded an occasion to urge an inquiry, into the expediency of reducing the price of the public lands as connected with the revenue. On the 22d of March, 1832, Mr Bibb moved a resolution to that effect, and directed the committee on manufactures to make the inquiry.

Mr Robinson also moved, that they report on the expediency of transferring the public territory to the states, within which it lies, upon reasonable terms.

These inquiries were ordered by a vote of 26 to 20, and on the 16th of April Mr Clay made a report against the expediency of both these propositions.

This report vindicates, with great force and clearness, the wisdom of the policy adopted by the government; but inasmuch as the revenue derived from imposts, was deemed adequate to the public expenditures, and as

some dissatisfaction prevailed in the new states at the exemption of the lands belonging to the United States from taxation until five years after they had been sold, it recommends that, besides the five per cent hitherto reserved from the proceeds of the public lands, for making internal improvements in the new states, ten per cent in addition should be reserved for internal improvements within the limits of the respective states.

The residue of the proceeds, a majority of the committee recommended to be divided among all the states, to be applied under the direction, and at the discretion of the state governments, to education, internal improvement, colonization, or to the payment of any debt already contracted for internal improvement.

In order to test the propriety of this modification of the existing system by experience, the act accompanying the report was limited to five years, and in case the United States should within that time become involved in war with a foreign power, the appropriation was to cease immediately. So prompt a repudiation of the whole scheme of bartering the public domain for the votes of the interested states, was hardly expected from a prominent candidate for the Presidency; and its leading advocates now sought to prevent any expression of the opinion of Congress, upon the plan proposed by the committee of manufactures. It was, however, necessary to present a different view of the subject, from that reported by the committee on man-

ufactures. With that view, when Mr Dickerson (the Chairman of the Committee on manufactures) moved, on the fourth of May, to take up the land bill; Mr King of Alabama moved to refer it to the committee on public lands, for the purpose of eliciting a report of an opposite character.

The motion was at first unsuccessful, being negatived, yeas 17, nays 21; but when it was renewed on the eighth of May, it was carried by the casting vote of the Vice President, yeas 22, nays 22. On the eighteenth of May, Mr King presented the report from that committee in opposition to the bill reported by Mr Clay. It combated the report upon the alleged ground of errors in the calculations and reasoning, and recommended that the minimum be fixed at one dollar per acre, and that when the land had been offered for sale five years, it should be reduced to fifty cents per acre, and that fifteen per cent of the proceeds be distributed among the new states. Both views of this litigated question were now fairly before Congress, but until the fifteenth of June, Congress was so much occupied in the consideration of the tariff and the bank bills, that the land bill was not taken up. On that day Mr Dickerson moved that it be taken up, and after some conversation, it was made the special order of the day on the 20th of June. On that day, when the special order was called for, Mr Forsyth moved, that the senate proceed to the consideration of executive business. This motion was strongly supported, but after

some discussion was rejected, yeas 21, nays 26. The bill was then taken up and fully explained by Mr Clay in an able and eloquent speech. Mr Benton replied to him, and after various efforts on the part of its opponents to get rid of the bill, the sense of the senate was finally expressed on the 30th of June, upon a motion for its indefinite postponement, which was negatived, yeas 17 nays 25. On Monday following (July 2d,) the discussion was renewed, and the question was taken upon an amendment proposed by the committee on public lands, increasing the sum to be divided among the new states from ten to fifteen per cent, the amendment was negatived, yeas 10, nays 36. A motion was then made by Mr Hayne, to strike out the words providing for a distribution of the proceeds among the states. He was opposed, he said, to the introduction of the principle, of distributing the revenue among the states. He insisted, that the proceeds of the public lands constituted part of the revenue. The clause, which he moved to strike out, cut off a part of the public revenue, taking it from the Treasury to divide it among the states. He made an objection to the distribution also, because it was a division of the gross, instead of net revenue, and so far as the difference between the gross and net proceeds, it was a division of the duties derived from imports. He admitted the power of Congress to legislate on the subject; but he was opposed to the donations of money to the states, and desired to have some general and



equitable system adopted for the distribution of the public lands. Mr Clay said he rejoiced, that the question of the principle of distribution was now to be tested in a simple and a solemn manner.

He met the opinion of the senator from South Carolina, that the division of the proceeds of the public lands would lead to the practice of distributing the proceeds of the taxes among the states by an opposite one; and declared his own firm and strenuous opposition to the principle of such distribution. He stated, that the revenue, from the public lands, was distinguished from all other revenue, by the language of the constitution and of the deeds of cession, which gave exclusive and unlimited power to congress over the public lands, and which was not given over any other revenue. This view was supported by the opinions of some of our ablest constitutional lawyers: and if it was correct, the argument therefore, that the division of this revenue would lead to the division of all the surplus revenue, he did not consider as sustainable. He adverted to the argument, that the distribution of the gross proceeds would be a distribution in part of revenue, from other sources, and stated that the bill authorized the division of the net proceeds only. He detailed what would be the deductions made by the accounting officers under the bill, when they determined the amount of the proceeds applicable to division. The net amount of charges on the annual sales of the public lands did not, he believed, exceed four per cent.

He hoped, that the question of distribution would be settled, and in such manner as to redound to the happiness and prosperity of every state, and of consequence of the whole of the Union.

Mr Hayne briefly replied upon the subject of the discrimination between the revenue from the public lands, and from other sources — and contended, that if the construction of the gentleman from Kentucky was correct, there was no limitation to the powers of the general government; and they might be exercised under a wild discretion, the extent of which could not be anticipated or controlled. He asserted, that there ought not to be any surplus money in the Treasury; but that care should be taken to regulate the taxes, so as to have no unnecessary amount in the Treasury. He denied, that he was anxious to increase the revenue from the public lands. He was willing to place them on a fair and equitable ground.

After further debate, in which Messrs Poindexter, Johnston, Kane, Holmes and Robinson took part — the question on fifteen per cent, was taken and decided, yeas 20, nays 26.

The question pending, being on the proposition of the committee on public lands, to strike out all the sections, which authorize the distribution among the states.

The question was taken by yeas and nays, and decided, yeas 21, nays 26.

Mr Benton then moved to introduce an additional section, reducing the price of public lands to one dollar per acre, and of



all which have been above five years in market, to fifty cents per acre.

On motion of Mr Kane, the question was divided, and was first taken on the first branch of the amendment, as follows, yeas 21, nays 27. The question was then taken on the second branch of the amendment, and decided, yeas 20, nays 28. Mr Poindexter moved to amend the bill in the first section, by striking out ten, and inserting twelve and a half per cent. Mr Clay and Mr Holmes expressed their intention to vote for the amendment. Mr Tipton moved to insert fourteen per cent. The chair pronounced this motion to be out of order. Mr Hayne appealed from the decision of the chair. The question was then taken, when there appeared, yeas 23, nays 23. There being a tie, the opinion of the chair was sustained.

The question recurring on the motion of Mr Poindexter, it was decided, yeas 27, nays 20.

Mr Poindexter then moved to amend the bill, by adding a fifth section, granting to Mississippi, Louisiana and Missouri, 600,000 acres each, for purposes specified.

Mr Hendricks moved to amend the amendment, by adding so many acres to the grant of Indiana, Alabama and Illinois, as would make the aggregate given to those states, equal to the grants now asked for the other states.

The amendment to the amendment was then agreed to: and the question was taken on the amendment, as amended and decided, yeas 28, nays 16.

Mr Hayne moved to strike out the words which specified the purposes to which the proceeds were to be applied by the states, so as to leave the states to apply the proceeds as they pleased.

It was contended by the opponents of the amendment, that the striking out of this limitation, would destroy the great object, and entire value of the bill.

On the other side, it was insisted, that the states would have a right to use the money as they pleased: and if they are disposed to apply it to internal improvements, education or colonization, they will do it in the absence of all limitations.

Mr Webster asked for a division, so as to take the question, first, on striking out the words 'of education and internal improvements;' and being taken on this branch of the amendment, it was negatived as follows, yeas 20, nays 27.

The question was then taken on striking out colonization, and negatived, yeas 22, nays 25.

Mr Benton moved to distribute the proceeds, according to the number of senators and representatives, which was negatived, yeas 13, nays 30.

Mr Robinson then moved an amendment reducing the price of all lands, which had been ten years in the market, to one dollar, and to actual settlers to fifty cents per acre. This was negatived, yeas 19, nays 24. Provisions were then added, that the appropriations for the Cumberland road should continue to be made out of the two per cent fund, and that the power of Con-

gress to grant future donations of land, should not be impaired, and the bill was ordered to a third reading, yeas 23, nays 18. The next day the bill received its final passage, yeas 26, nays 18, and was sent to the House for concurrence.

The subject had already been examined in that body, and the committee upon public lands, through its chairman (Mr Wickliffe), had presented a report, recommending certain modifications in the land system of the United States.

The report altogether disapproved of the plan of the Secretary of the Treasury, to dispose of the public lands, to the several States within which they lie, and to divide the proceeds among the States. The proceeds are regarded as part of the public revenue, and the power to divide the same is denied by the report. Assuming it then to be the duty of the government to reduce the revenue to the reasonable demands of the public service, the committee declare themselves opposed to abstracting the proceeds from the revenue of the government; but urge that the price of the public lands should be reduced for the two-fold purpose; first, of reducing the amount of revenue derived from the sales thereof; and secondly, with the view of placing it more immediately within the power of every man, however poor, to acquire a home for his family.

The report adverts to the effects upon the Western States, of annually withdrawing so much money from the West, as the price

of these lands amounts to, and expending it in other portions of the Union, under the present system; and deprecates the state of things, which it declares to be inevitable, should the funds arising from the sales of the public lands, be divided in any form, and in any ratio, among the several States, for State purposes.

The report recommends, that Congress should retain the unrestricted control over the public domain, and that the national legislation over the same, should be guarded by a policy which shall regard it rather as a means to build up flourishing communities, than as a profitable source of revenue to the general government, or of wealth to the individual States. Upon this subject we will conclude this abstract, by quoting the language of the report itself, as follows.

‘The general government should dispose of them upon terms accommodated to the wants of the community, and when the unsold lands in the respective States shall become refuse, and no longer worth the expense of federal superintendence and care, a relinquishment of them, to the State in which they lie, or to individuals, would be the better policy.

It is not probable that the government will again be placed in a condition, when it will become necessary to resort to her public domain, either as the means of raising an army, or borrowing money.

The committee have expressed the opinion, that the period is approaching, if it has not already arrived, when it would be sound

policy to reduce the price of the public lands. Arguments other than the necessity of ridding the treasury of the revenue derived from sales at the present prices, in favor of a reduction of the price of the public lands, could be advanced, if that were the question now under the consideration of the committee. The price was reduced in 1821, from two dollars to one dollar and twentyfive cents per acre. Real estate, in common with every other species of property, has decreased in value since that time. The price of labor has lessened. The appreciation in the value of the circulating medium, since 1821, has been very considerable, and still the price of the public land is the same now as then. It should not be forgotten, either, that in most of the new States, the best and choice lands have been sold.'

With a report thus conflicting with the views embodied in the bill from the senate, it would have been difficult to have satisfactorily adjusted the details of a bill, so

as to have reconciled all parties, at that late period of the session. Still, however, it was deemed important to have an expression of the opinion of the House on this question, and a disposition was manifested by the friends of the bill, to press for a decision.

This was not acceptable to the friends of the administration, and with the view of avoiding any decision, they concluded to urge its postponement to another session. A motion was accordingly made by Mr Wilde on the third of July, to postpone the further consideration of the bill, until the first Monday of December next, which was equivalent to a rejection of the bill. This motion was carried, yeas 91, nays 88, and a motion made the next day by Mr Condict of New Jersey, for a reconsideration, was negatived, yeas 88, nays 100.

The subject was thus postponed, and it remains for future adjustment, as one of the great unsettled questions of American politics.

## CHAPTER VI.

*General Remarks. — Currency of new Countries. — Continental Money. — Power to regulate Currency vested in Congress. — History of Banking in the United States — Paper Currency substituted for Metallic. — State of Currency during the War of 1812. — United States Bank established. — Specie payments resumed. — Banks in Tennessee and Kentucky. — Relief party. — Present condition of the United States. — Course of Commerce. — New States deficient in Capital. — Effect of a National Bank. — Sound Currency established. — Rate of Exchange diminished — Course of Exchange. — Constitutionality of National Bank — Hostility to Bank — Errors in Management — Attack upon Bank in message of 1829 — Effect upon Stock — Reports adverse to Message — Attack renewed in 1830 and 1831 — Renewal of Charter asked — Bill reported in Senate 1832 — In House — Committee of Inquiry appointed — Discussion upon Inquiry — Reports — Bill taken up in the Senate — Amendments — Bill passed — Taken up in House — Amendments — House passes Bill — Senate refuses to Adjourn — Veto of President — Discussion on Veto — Bill rejected.*

IN new countries one of the chief difficulties, with which a civilized population is obliged to contend, after a sufficiency is obtained of the necessaries of life, is in appropriating a portion of their capital, to serve as a common standard of value in the transactions of commerce. Barter, which is always the first process, soon becomes too burdensome, and the precious metals, which in older countries furnish a sound and universal currency, are too expensive for new settlements, where all the capital of

the inhabitants is wanted in improving the face of the country, and in providing additional comforts as the community advances in wealth. In the course of time, however, commerce claims a portion of capital as the medium of exchange; and the struggle commences between the necessity of providing a circulating medium, formed of a material of universal value, and the reluctance to spare for that purpose, capital, which might be exchanged for articles essentially wanted in new countries. Hence it is found, that in



new colonies, there is a strong tendency to substitute the credit of public bodies in the place of capital, or in other words, a paper for a metallic currency. The want of capital is so great, and the opportunities of investment so abundant, that the issues soon become excessive ; and it is not until the channels of circulation are entirely filled, that the holders begin to look to the fund provided for its redemption ; and the first reaction generally results in the depreciation of the currency and in the universal distress of the community.

In this country, this evil had been so often felt under the colonial governments, and during the revolution, (when the necessity of the public service compelled, if it did not excuse excessive emissions of bills of credit by the individual States,) that upon forming a government for the United States, after the termination of hostilities, all power over the currency was taken from the State governments ; and they were expressly prohibited from coining money, issuing bills of credit, or making anything but gold and silver a tender in payment of debts.

It was intended to vest in Congress the power to establish a uniform currency, instead of the fluctuating medium formerly used ; and to place it out of the power of the States, to invalidate or alter the terms of contracts by tender, relief, or bankrupt laws, or by any tampering with the currency. It was a wise endeavor to elevate the commercial credit of the country, by placing its principles under the guardianship of the na-

tional government, and to establish the currency upon an immovable basis, by making it of gold and silver. The effort, though well meant, was at that period of our history almost too great for the ability of the country. A circulating medium composed entirely of the precious metals, could not be furnished, without abstracting too large a share of its capital from active employment.

Certificates of public debt were already too abundant, and the name of continental money was of itself sufficient, to prevent government bills from becoming current. A bank, whose issues should be founded on real capital, convertible at pleasure into gold and silver, would furnish a circulating medium not so expensive as a metallic currency, and still not liable to the objections made to treasury bills. So long as the credit of the bank should be fully sustained, a large amount of bills would be kept in circulation, and an additional capital provided, on which it might safely discount to a certain extent. The experiment had been already successfully tried, in the bank of North America, chartered in 1781, under the authority of the continental Congress. This institution subsequently accepted a charter from the Legislature of Pennsylvania, and of course lost its character as a national bank. This step was also unfortunate, as the commencement of State banking, and being speedily followed by the incorporation of the banks of New York and Massachusetts, by the Legislatures of those respective States, established the prac-

tice of incorporating State banks upon a footing, that could not be overthrown. As these banks were all established on real capital, and were prudently managed, their paper soon formed a large part of the circulating medium; and by the operation of causes more powerful than legislative enactments, a victory was finally obtained over the policy and spirit of the constitution; and a currency, chiefly composed of the notes of incorporated banks, was substituted in the place of a metallic currency. With such a circulating medium, it is clear that the State governments, in exercising the power of incorporating banks, have materially diminished the practical control of Congress over the currency of the Union. These notes, indeed, are not, and cannot be made a legal tender in payment of debts. The federal constitution has there interposed an effectual prohibition. But although the power, which is secured to each creditor of enforcing payment of his debt in specie, has served as a check to the excessive issue of Bank notes, still a paper currency has existed in the United States, which, by dispensing with and superseding the use of the precious metals, has in fact compelled every one to receive such currency in nearly the same manner, as if it had been made a legal tender.

The old United States Bank, which was chartered by Congress in 1791, shortly after the adoption of the federal constitution, by the salutary control it exercised over the State banks, prevented any great and general injury

from growing out of this change in the character of the currency. It carefully guarded against all excessive issues by the local banks, and compelled them to make their paper equivalent to specie. Even this check did not always prove sufficient; and the natural tendency of banking institutions in new countries to over issues, was occasionally illustrated by the bankruptcy of country banks, to the great detriment of the mercantile community. When this check was withdrawn by the refusal to renew the charter of the United States bank, in 1811, the evil became incomparably greater. Availing themselves of the pecuniary distress of the government during the war that ensued, the local banks, out of New England, came to a determination to suspend specie payments, and by continually increasing their issues, they finally flooded the country with bank notes, which constituted the sole circulating medium, and which, though nominally convertible into specie upon demand, were in reality at twenty per cent discount.

Even this currency was received, as if it had been made a legal tender. An outcry had been made against those, who enforced the payment of specie, as engaged in a combination to drain the country of the precious metals; and the only alternative presented to the creditor was, a lawsuit in the face of public opinion for his legal rights, or the acceptance of the depreciated paper currency from his debtor.

Protected by this popular prejudice, the banks went on issuing

their irredeemable bills even after the termination of the war ; and a circulating medium, altogether without value in other countries, became the currency of the Union, with the exception of the Eastern States. By the large issues of the banks that had suspended payment, the circulating medium had been so much augmented, that it exceeded the wants of the community and fell greatly in value,—the whole currency in 1816, being estimated at \$110,000,000, when \$45,000,000, were all that was needed. This evil was still further aggravated by the different values of this currency in the several States—being in some five, in some ten, in others twenty per cent below par. A debtor, therefore, in paying a debt contracted before the general depreciation of the currency, would, in that state of affairs, pay less value than he agreed to pay ; and a debtor by moving from the eastern to the southern and western States would, in effect, diminish the amount of his indebtedness twenty per cent. Nor was this all. By the federal constitution it was provided, that all duties, imposts and excises, should be uniform throughout the United States. So long, however, as bank notes were received by the revenue officers at Boston, New York, and Baltimore, the importer at Baltimore during this period paid one fifth, and at New York one tenth less than at Boston, where bank notes were equivalent to specie.

To permit the longer continuance of this state of things in the

face of the constitution, would have been inconsistent with the duty of Congress. A remedy was necessary. Congress could no longer regulate the value of the currency by declaring, that current coin in silver and gold should be of a specified weight and purity. A paper was substituted in the place of a metallic currency, and it was essential to obtain a control over the local banks, and to bring their issues within proper limits. This might have been done by positive enactment, or by imposing a stamp duty on bank notes ; but in the then existing state of the currency, it was deemed hazardous to resort to direct interference.

It was also proposed to remedy the evil by investing the receiving officers of the revenue with the power of discriminating between the notes of the several banks. This addition to the power and influence of the revenue offices was wisely deemed expedient as augmenting too directly the powers of the treasury department ; and the short experiment, which was made of this mode of controlling the local banks, resulted in bringing into the treasury more than a million of dollars, of what were denominated unavailable funds, consisting of the notes of broken banks.

The only mode remaining consisted in establishing a United States Bank, with capital sufficient to control the local banks, which should by degrees compel them to reduce their issues to an amount proportionate to their means, and thus bring the paper currency to the par of silver and



gold. This mode was adopted, and the present United States Bank was chartered in 1816, for twenty years, with a capital of \$35,000,000, to which the federal government subscribed one fifth.

The notes of this bank and its branches, were made receivable for any debt due to the United States, and its capital and solidity soon gave a currency to its notes, to the exclusion of those local banks, that did not redeem their paper in specie.

They were immediately compelled to reduce their issues with a view to the resumption of specie payments, and within three years after the opening of the United States bank, the currency of the Union was reduced from \$110,000,000, to \$45,000,000, and made equivalent to gold and silver. The local banks found the United States Bank notes were preferred, and they were compelled to furnish as good a currency, in order to preserve those customers who were worth having. Since this restoration of the currency to a healthy state, it has been kept so, by the constant action of the national bank upon all local banks, evincing a disposition to depart from the true rules of banking.

Occasional deviations have indeed taken place, as in Tennessee and Kentucky, where the Legislatures undertook to create capital by pledging the public credit, and to force an unnatural quantity of bank notes into circulation. These attempts resulted, as was predicted, in the bankruptcy of the banks, and in the general dis-

tress of that part of the country. In Kentucky, indeed, the legislature sought to alleviate the distress flowing from this policy, by relief and tender laws. But this only aggravated the evil, and finally produced a contest between the friends of law and order, and the partizans of the 'relief system,' that for violence and acrimony has been seldom witnessed in the United States. The relief and tender laws were declared unconstitutional by the State Court of Appeal, and their advocates having obtained possession of the Legislature, abolished the court and constituted a new court in its place. The old court, however, refused to yield, and being sustained by the sound part of society, finally prevailed in the contest; and after a conflict of six years, the legislative and executive departments were rescued from the hands of the relief party, and law and justice, which for a short time had been driven from the judgment-seat, resumed their sway over the State of Kentucky.

The history of the banking institutions of that State, affords a striking illustration of the mischiefs resulting from any interference of a State government with the currency, and furnishes a complete demonstration of the wisdom of the federal constitution, in vesting the whole power over this subject in the general government. During the short period that elapsed between the first usurpation on the part of Kentucky upon this prerogative of Congress, and the termination of the contest, the currency of



the State was depreciated ; private and public credit destroyed ; a bankruptcy almost universal produced ; the principles of sound morality and civil order disregarded ; the most valuable institutions of the State temporarily overthrown ; and the community brought to the brink of civil war and anarchy.

The right side having triumphed, means were taken to redeem this depreciated currency ; and the notes of the United States Bank furnishing a currency that was universally preferred, the paper of the Commonwealth bank was driven from circulation, and gradually redeemed and destroyed.

To prevent the recurrence of such a state of things in other States, is one of the objects of a national bank. In a country like this, the temptation to excessive issues of bank paper is too strong to be resisted by banking institutions in the new States, unless they are checked by a vigilant superintendence, beyond the effect of local influence. The United States at the present moment furnish a complete epitome of the progress of civilization in a wilderness, and until the whole continent shall be occupied, this republic will always possess within its limits all the varieties of human society, in its advancement from the savage to the civilized state. On the Atlantic coast are cities and States which, in commerce, in capital, and in all the productions of wealth and skill, are not far, if at all, behind those of Europe. Advancing through New York

and Pennsylvania, a traveller enters the New States beyond the Alleghanies, and although Cincinnati, Lexington, Louisville and Nashville are inferior to but few cities on the sea-coast, still the population is not so dense, and the country shows fewer signs of cultivation. The roads become worse, the towns smaller, until in the far west he comes upon the log hut, the half cleared field, and finally reaches the ultima thule of civilization, in discovering the trapper's tent not far distant from the Indian's wigwam. The effect of this condition of society, upon the internal commerce of the country, is striking and characteristic. In settling in the interior, whether in one or more families, the whites take with them little more than their clothing, furniture, agricultural implements, and a small stock of domestic cattle.

In a few years the fertility of the soil enables them to send surplus produce, in exchange for European or West India productions to the stores of the country traders in some neighboring town, who in their turn transport it to the sea-coast for home consumption or exportation. In this manner an active trade is maintained between the sea-ports and the interior, and as the new settlers stand in actual need of many foreign articles, which they require on credit, to be paid for from the next year's crop, it follows, that the interior is invariably in debt to the merchants on the sea-board. These debts, however, they are enabled to discharge through the great fertility of their soil, and the advance of

their property in consequence of the improvement of the country ; and contrary to an old maxim, they grow rich, although they continue in debt — that is, they are daily augmenting the value of their farms, and each year they are enabled to purchase some additional comfort or luxury, which they do not hesitate to buy on credit, because they are certain of being able to pay for it before the lapse of another year.

The invariable course of business between old and new countries — always showing a balance in favor of the former, and bringing the latter in debt — demonstrates, that this habit is beyond the reach of legislation.

The truth is, that new countries are deficient in capital. They are in want of all the luxuries and many of the necessities, to which the emigrants were accustomed at home. They, however, advance in wealth and population faster than older states, and for the advance of capital or the credit, which they require, they are able and willing to pay. Thus both parties are satisfied with their mutual relations of debtor and creditor, and find their respective interests promoted by the proper adjustment of these relations. The same principle is equally applicable, to the capital required in the new States for a circulating medium. If they can borrow at a fair rate of interest from the Atlantic cities, or from Europe, capital for this purpose, it is as advantageous a loan as if procured for any other object. It enables them to appropriate an equal amount of

capital to the clearing of new towns, building better houses, improving the roads, and generally promoting the prosperity of that portion of the Union. It obviates the necessity, that so often impels them to excessive issues, on a limited capital of their own, and thus lessens the danger of a derangement of the currency.

This object was effectually attained in the establishment of the United States Bank. Founded upon real capital, which was large enough for its proposed ends, it furnished through its branches a sound paper currency to these new States ; and by the supervising care of the mother bank, those branches were sufficiently guarded against the tendency to over issues.

By the same agency, the local banks were compelled to conduct their business with prudence and to keep their circulation within proper limits. Whenever their issues were too much augmented, the national bank interposed a direct check, in demanding the redemption of their paper ; and an indirect check was also given by the superior credit of its bills, which are receivable in all places in payment of duties. Since the establishment of this bank, consequently, the business of domestic exchange has been transacted upon the basis of a sound currency, and the rate of exchange, between the western and the middle States, has been reduced to one fifth of its price before that event.

It was not, however, in this manner alone that the rate of exchange was lowered. It was

equalized by the obligation assumed by the federal government, to receive the notes of the United States in payment of duties. The revenue paid to the United States in each year amounts to about \$26,000,000, of which about one half is receivable at the Custom House in New York. The exchange being always in favor of that city, whenever it became too high, remittances were made by the western merchants in Branch notes to their New York creditors, who used those notes in paying their custom house bonds. The exchange was thus equalized without any expense to the community, and this operation has been felt through all the branches of the domestic exchange business.

Its effect has been so great, that exchange between the different parts of the Union has been generally kept below the expense of transporting the specie, and the branch notes have seldom been at a greater discount, than one fourth per cent in any part of the country. As an equivalent for these advantages, the national bank, besides a bonus paid to the government when the charter was granted, has collected the public revenue and transported it without expense to any part of the Union, where it was wanted. It has also disbursed it, and thus formed an efficient arm of the treasury department. During the time it has been in existence, it has performed these duties without any expense to the government, and has saved it from all losses from the insolvency of State banks. As an agent of the

treasury department in collecting and disbursing the revenue, it has proved itself efficient and eminently useful; and in that point of view, the establishment of the United States Bank by Congress, has been vindicated as one of the means necessary and proper to carry into effect the powers constitutionally vested in the federal government. In its operation upon the federal currency of the country, however, its constitutionality is still more unquestionable. It is through a national bank alone, that Congress can exercise that control over the monetary system of the Union, that is vested in it by the federal compact.

In order therefore to regulate the currency, and to render the taxes and duties imposed by Congress uniform throughout the United States, it is absolutely necessary, that a national bank should be established with sufficient capital to control the State banks, and to compel them to keep their notes equivalent to specie. It can in this manner only discharge that duty, which for wise and salutary ends, was exclusively vested in Congress at the formation of the government. In performing these highly responsible duties, the United States Bank has necessarily gone counter to the wishes of various classes of the community. By compelling the local banks to control their issues, it has diminished the dividends of the stockholders; by reducing the rate of domestic exchange, it has lessened the profits of the brokers and capitalists, carrying on that branch of business; and by in-



creasing the value of the circulating medium, through its supervising power over the local banks, it has, in effect, reduced the price of all property for which money is exchanged. These effects, though salutary to the community, have been injurious to individual interests, which have all been arrayed in hostility to that institution.—The benefits of the bank have been of too general character, to be readily appreciated by the mass. They consist in restoring and maintaining a sound currency, and though this is as indispensable to prosperous commerce, as a pure atmosphere is to a healthy man; still no special feeling is excited in the minds of those, who use the one and breathe the other with a happy forgetfulness, that adulterated coin and irredeemable paper will cause as much desolation among merchants, as a pestilential miasma in a crowded city.

The administration of the bank, however, though excellent, has not been without faults. Shortly after going into operation its direction fell into the hands of a few speculators, who brought it to the verge of bankruptcy, and it did not escape without the loss of more than a million of dollars, and no small portion of character. In the distribution of capital, dissatisfaction had been caused by the small amount apportioned to the city of New York; and it has been with too much reason asserted, that the illiberal policy pursued by the present bank towards that city, originated in a jealousy of the increasing wealth and trade of the commercial metropolis of the

United States. At times too it had indiscreetly enlarged its discounts, and in order to bring the currency within proper limits, was obliged to bear harshly upon its customers.

Notwithstanding these errors it was with no little surprise, that the public found in the first message of Gen. Jackson to Congress, (six years before the expiration of the charter), an expression of his opinion against the constitutionality and expediency of the United States Bank, and an assertion, that it had failed in the great end of establishing a uniform and sound currency. As no intimation had been given of an intention to apply for a renewal of the charter, and as no specific abuses were pointed out deserving examination, this intimation was justly regarded as an indication of a strong hostility against that institution on the part of the President, originating in causes not open to the public eye. The message had the effect of diminishing the value of the stock six per cent lower than before the opening of Congress.—The subject however, was referred to the committees on finance and reports adverse to the President's views, having been brought in, the stock recovered itself, and finally attained a higher rate than the original price.

The attack, however, was renewed in the message at the commencement of the next session; and Congress was recommended to inquire into the expediency of renewing the charter of the existing bank, with the view of substituting in its place a bank based on the public deposits, but with-



out the power of making loans or purchasing property. This recommendation met with no better reception, than that contained in the previous message.

No steps were taken by either House upon the subject. The bank made no application to Congress, and when Mr Benton asked for leave to introduce a resolution in the Senate adverse to the renewal of the charter, that body refused permission by a vote of 23 nays, 20 ayes. The stock maintained its price in market, and in the message of the President at the opening of the 22d Congress, his objections to the bank were expressed for the third time.

It was now deemed proper for that institution to submit its claims for an extension of its charter to Congress. The attention of that body had been called to that question at each session by the President, and if it was not deemed too early for Congress to decide upon the expediency of renewing the charter in 1830, it certainly could not be so to ask a decision in 1832. A memorial to this effect was, therefore, presented on the part of the United States Bank, and no sooner was this determined upon, than the friends of the President began to express their dissatisfaction at being forced to act upon the subject at this time. It was too early, they said, notwithstanding the President had not deemed it too early for Congress to act upon the matter two years before; and they sought to postpone the consideration of the question, which they had been so desirous of for-

cing upon its attention. This course was too glaringly inconsistent to succeed, and the memorial having been presented in the Senate on the 9th of January, by Mr Dallas, it was referred to a select committee for consideration. On the 13th of March this committee reported in favor of renewing the charter for fifteen years, with the following modifications.

No notes (under \$50) were to be issued from the bank or any branch, unless made payable at the bank or branch whence issued, except at the request of the persons to whom they are delivered.

The notes of the bank to be received by every branch in payment of balances due by any State bank.

The corporation to be prohibited retaining any real estate, other than for banking purposes, longer than two years under a penalty of \$10,000 in each case.

Not more than two branches to be established or retained in any State; and not more than one, except in the States in which they now exist, without the assent of the legislature.

A bonus of \$1,500,000, to be given to the government, payable in three annual payments.— A bill accompanied this report, which was ordered to a second reading, and then laid upon the table of the Senate, until after the report of the committee appointed by the House to inquire into the affairs of the bank.

It was in that body, that the main battle concerning the bank was to be fought. Upon the

presentation of the memorial by Mr McDuffie, on the 9th of January, parties at once arrayed themselves upon the question of reference,—the friends of the bank being in favor of a reference to the committee of ways and means; while its opponents sought to refer it to a select committee. The former prevailed by a vote of 100 yeas, 90 nays, and the memorial was accordingly referred to the committee of ways and means, by whom a report was made in favor of the renewal of the charter on the 10th of February. The minority made a counter report, containing the views of the opponents of the bank; and both parties now addressed themselves, to sustain their respective views on this important question. The next step taken by its opponents consisted in a motion, made by Mr Clayton, on the 23d of February, for a committee of inquiry into the affairs of the bank, with power to send for persons and papers. An animated discussion ensued upon this motion. Mr Clayton said, that he believed, upon investigation, the following charges would be substantiated viz.

1. The issue of \$7,000,000 and more of branch bank orders as a currency.

2. Usury exacted on the loan of broken bank notes in Kentucky and Ohio.

3. Domestic bills of exchange issued—being disguised loans at more than the rate of six per cent. Sixteen millions of these bills were issued in December last.

4. Non-user of the charter:—in this, that from 1819 to 1826, a period of seven years, the south and west branches issued no currency of any kind.

5. Building houses *to rent*, which is contrary to the limitation in their charter, on the right to hold real property.

6. In not having a due proportion of coin in the capital stock.

7. Foreigners voting for directors, through their trustees.

Mr Clayton also stated that there were abuses worthy of inquiry into, not amounting to forfeiture, but going, if true, to show the inexpediency of renewing the charter.

1. Not cashing its own notes, nor receiving in deposit at each branch and at the parent bank, the notes of each other. By reason of this practice, notes of the mother bank are at a discount at many, if not all, of her branches, which completely negatives the assertion of establishing a sound and uniform currency.

2. Making a difference in receiving notes from the federal government and private citizens. This is admitted as to all notes above five dollars.

3. Making a difference between members of Congress and the citizens generally, in both granting loans and selling bills of exchange. It is believed it can be made to appear, that members can obtain bills of exchange *without*—citizens *with* a premium: the first give nominal endorsers,—the others must give two sufficient resident endorsers.

4. In permitting the undue accumulation of proxies, in the

hands of a few to control the election for directors.

5. A strong suspicion of a secret understanding between the bank and brokers to job in stocks, contrary to the charter. For example, to buy up the three per cent stock at this time, and to force the government to pay at par for that stock — and that the government deposits are used to enhance the value of its own debts.

6. Making subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank.

7. Making distinctions in favor of merchants in selling bills of exchange.

8. Practising upon local banks and debtors, to make them petition Congress for a renewal of its charter, and thus to impose upon Congress by false clamor.

9. Mr C. also proposed to inquire into the actual management of the bank, whether safely and prudently conducted.

10. Into the actual condition of the bank, its debts and credits; how much it has increased its debts, and diminished its means to pay in the last year; how much it has increased its credits and multiplied its debtors, since the President's message in 1829, without ability to take up the notes it has issued, and pay its deposits.

11. Into its excessive issues, all on public deposits.

12. Whether the account of the bank's prosperity be real or delusive.

13. Into the amount of gold

and silver coin and bullion, sent from the western and southern branches of the parent bank, since its establishment in 1817. The amount is supposed to be 15 or 20,000,000, and, with bank interest on bank debts, constitutes a system of the most intolerable oppression of the south and west. The gold and silver of the south and west, have been drawn to the mother bank, mostly by the agency of that unlawful currency created by branch bank orders.

14. Into the establishment of agencies in different States, under the direction and management of one person only, to deal in bills of exchange and to transact the other business properly belonging to branch banks.

15. Into its giving authority to State banks to discount its bills, without authority from the Secretary of the Treasury.

After these changes had been fully stated by Mr Clayton, Mr McDuffie replied, that he should consider them to be what Mr Clayton had called them, that is, an indictment against the bank, and should answer them in detail — that the first charge, 'the issue of seven millions or more of branch bank orders as currency,' he considered a fair specimen of the whole. After showing the constitutional right of the bank to issue such orders, their beneficial effect upon the interests of the institution, and the country, he denounced it as the idlest of all charges ever brought forward. It would not bear discussion. He showed also, that the issue by the branches of such orders, was a matter of sheer necessity, the Cashier and

President of the mother bank, not possessing the physical power to sign.

The next specification 'for usury, taken on broken bank notes in Kentucky and Ohio.'

This specification, Mr McDuffie showed was based on a transaction which occurred ten years ago — where an individual, on presenting a note for discount, was told by the officer of the branch where it took place, that it could not be done — this individual, knowing that the bank had some uncurrent notes of State banks in its possession, proposed that he would receive them — his proposition was acceded to; he received those notes, and afterwards pleaded usury, and thus avoided payment.

The third charge alleges, that the bank dealt in domestic bills of exchange. Mr McDuffie replied, that it was authorized so to do by its charter, and that those bills of exchange were of great benefit to the community at large.

The fourth charge was 'a non-user of its charter, in this, that for a period of seven years, the southern and western branches had issued no currency of any kind.'

Mr McDuffie said that it was not obligatory upon the bank, that all its branches should issue currency — that the issue of such evidences of debt was wholly discretionary with the bank.

The fifth charge is 'the building of houses to rent.'

Mr McDuffie replied, that the charter authorized the bank to purchase property, which had been mortgaged as a collateral —

that it had become possessed of real estate in no other manner than this; that the authority to buy land is an authority to *own* land; and an authority to own land is an authority to *use* it for the advantage of the stockholders.

The sixth count is, 'for not having in its capital stock a due proportion of *coin*.'

Mr McDuffie could not understand the bearing of this charge, or to what Mr Clayton alluded.

Mr Clayton said 'the bank cannot pay its debts and is broke.'

Mr McDuffie pronounced the allegation utterly unfounded. He averred, that the bank was not only able to pay its debts, but had a large surplus — and could leave its capital wholly untouched.

The seventh charge is, 'foreigners voting for directors, through their trustees.' Of this fact Mr McDuffie knew nothing; but he was satisfied that it would turn out to be without foundation.

The next charge is, 'not cashing its own notes, or receiving in deposit at each branch, and at the parent bank, the notes of each other.'

Mr McDuffie showed, that the attempt of the bank in 1819, to do what Mr Clayton would now require it to do, had brought on it all the embarrassments of that period. If it were to do it, all the commercial exchanges of the country would be conducted at its expense. The drafts of the respective branches were payable at the places of issuing — they bore this fact on their face — the operation was a fair one.

The next is, 'the making a



difference in receiving notes from the federal government and the citizens of the United States.'

This charge was met by Mr McDuffie, by showing, that the very stipulations of the charter required the bank to make this difference.

The next is, 'making a difference between members of Congress and the citizens generally, both in granting loans and in selling bills of exchange.'

Mr McDuffie showed, that it had been the uniform practice of the bank, from the beginning, to grant such accommodations, and for one, he felt grateful for the favor extended to himself.

'The undue accumulation of proxies in the hands of a few to control the election for directors.'

The bank had no control over the action of stockholders in such matters, and therefore was not responsible for their conduct.

'A strong *suspicion* of secret understanding between the bank and brokers, to job in stocks, contrary to the charter.'

Mr McDuffie expressed his surprise at the language of this count, in Mr Clayton's indictment. He thought, that that gentleman had received some admonitions on the subject of yielding his ear too credulously to suspicions whispered by anonymous and irresponsible informers. He maintained that *suspicion* — mere suspicion — was not an adequate ground for instituting such an inquiry as this.

The next charge is, 'that the bank made a distinction in selling bills of exchange.'

This Mr McDuffie denounced as unfounded.

The next charge is, 'that the bank has used undue and improper practices to induce the local banks to petition Congress for a renewal of its charter, and thus to impose upon Congress by false clamor.'

This charge, said Mr McDuffie, was in its very nature, and upon its face, founded upon mere surmise, and therefore not entitled to notice.

The next charge in order, proposed an inquiry into the manner, in which the bank had been conducted — it was not, therefore, properly speaking, an allegation, and required no special notice. The information sought for, had already been placed before the nation.

The next allegation — 'that the bank had made excessive issues, all on public deposits.'

Mr McDuffie maintained, that if the bank had rendered itself obnoxious to censure in this respect, that there was no bank in the United States that could escape condemnation — for there was not one, in proportion to its capital, who did not issue a larger amount of bills than it did. He said, that there was no bank in the country — and there never had been one, which had conducted its issues with more perfect safety to all the interests involved.

The next inquiry, the gentleman from Georgia, proposed to make by the agency of a select committee, related 'to the amount of gold and silver coin and bullion sent from southern and western branches to the parent bank, since its establishment in 1817.'

Mr McDuffie remarked, that

the transfer of specie, like that of any other article, was regulated by the course of domestic exchange, and the demands of the different parts of the Union. To complain, that this transfer is performed by the bank, almost free of any charge, was to complain of one of its most wholesome and salutary operations. In nothing had the bank done more essential service to the people, than in the very matter, for which the gentleman from Georgia was now arraigning it.

The next charge was, 'the establishment of agencies, in different States, under the direction and management of one person only, to deal in bills of exchange, and to transact the other business properly belonging to branch banks.

Mr McDuffie considered that the charter had expressly granted the power exercised by the bank.

The last specification was, 'giving authority to State banks to discount their bills without authority from the treasury.'

Mr McDuffie could not understand what it was, that the gentleman from Georgia meant to condemn. Did he suppose, that the State banks were not authorized to discount the bills of the United States bank without a special authority from that bank to do so? or that any authority of that kind could give them a greater right, in that respect, than they had without such authority.

In conclusion, Mr McDuffie said, I will repeat the declaration I have already made, that if the honorable member from Georgia will state upon his responsibility,

as a member of this House, that there is any respectable man, who has assured him, that he will prove against the bank, the alleged charge of corrupt dealing, with brokers or any other description of persons, I will give my vote for creating this special commission, be the cost and be the consequences what they may. But in the failure of the gentleman to give this assurance, I shall feel constrained, by every consideration, to give my vote against it.

This discussion was continued for several days, during the time devoted to the consideration of resolutions. In the course of this discussion, a motion was made by Mr Root to appoint the committee by ballot, with the view of taking the appointment from the speaker, who was hostile to the bank; and the question being taken — the House divided, 100 in favor and 100 opposed to the motion. Whereupon the speaker voted in the negative, and retained the power in his own hands.

An attempt was made to amend the resolution, so as to direct the committee to inquire into all the affairs of the bank; but the House adopted instead thereof, an amendment directing the committee, to inspect the books and examine into the proceedings of the bank, and to report whether the provisions of its charter had been violated or not. This amendment was adopted, yeas 106, nays 92, and the committee was appointed with directions to report by the 21st of April.

This report was, in fact, made the 30th of April by a majority of the committee only, and by that report it appeared, that the investigation had not been confined to alleged violations of the charter, but had been extended to all the affairs of the bank. The conclusion at which the majority, consisting of Messrs Clayton, Cambreling, Thomas and R. M. Johnson, arrived from this investigation was, that Congress should not act upon the question of re-chartering the bank, until after the public debt was discharged, and the revenue adjusted to the expenditure of the federal government. The minority composed of Messrs Adams, McDuffie and Watmough, made a counter report, vindicating the conduct of the bank, and recommending a renewal of the charter.

These reports were ordered to be printed for general circulation, and on the 22d of May the bill was taken up in Committee of the whole Senate for consideration.

Upon motion of Mr Webster, the bill was amended by striking out that section, which prohibited more than two branches in a state. This section was afterwards restored in the Senate. He also moved an amendment, increasing the bonus to \$2,250, 000, and making it payable in fifteen annual instalments of \$150, 000 each, and prohibiting the bank from issuing notes of less denomination than \$20.

Mr Moore then offered two amendments. The first, prohibiting the establishment of branches in a State without the consent of the State government, was re-

jected by a vote of 28 to 18; and the second, proposing to subject each branch to taxation in the same manner, that the local banks in such State should be taxed, was rejected by a vote of 26 to 18; and in its stead was substituted an amendment, providing for the distribution of the annual bonus among the respective states, according to their federal numbers. This amendment was adopted, yeas 25, nays 19; but it was afterwards rejected in the senate, yeas 16, nays 31.

Mr Bibb also moved several amendments. The first, giving to the President, with the consent of the Senate, the power of appointing the president of the bank and its branches, was negatived, yeas Bibb and Benton, nays 43.

The second, fixing the rate of interest at 5 per cent was negatived, yeas 20, nays 25. The third, prohibiting any individual from voting upon more than thirty shares at an election, was rejected, yeas 10, nays 35.

Mr Ewing moved to strike out that provision, prohibiting the bank from holding real estate except for banking purposes for more than two years; but the motion was negatived, yeas 22, nays 23; and the time was then enlarged to five years. He also moved to strike out the section, prohibiting the issuing of notes less than fifty dollars, payable at other branches than the one issuing it, and it was carried, yeas 24, nays 15. Mr Benton then moved several amendments, the first to strike out the clause restraining Congress from creating any other banking incorporation during the



continuance of the charter, which was negatived, yeas 16, nays 26. The second, prohibiting any member of Congress, officer of the federal government, or alien, from holding any stock in the bank was negatived, yeas 6, nays 34. The third, rendering stockholders liable in their private capacities to the amount of their stock, for any violation of the engagements of the bank, met with the same fate, yeas 11, nays 33, as did the fourth, prohibiting the issuing of checks or notes payable at other branches than that where they were issued, yeas 17, nays 27.

Mr Marcy then moved to add a clause, expressly retaining in Congress the right to modify or repeal the charter at any time after 1836, which was negatived, yeas 15, nays 29.

Mr Tazewell then moved to limit the charter to ten years, which was negatived, yeas 20, nays 27. It was then proposed to increase the annual bonus to \$525,000, which was negatived, yeas 10, nays 36, and the sums of \$350,000, \$300,000, and \$250,000, were successively negatived, yeas 10, nays 27. It was finally agreed to fix it at \$200,000, yeas 43, nays 4.

Mr White then proposed an amendment, by which the bank was to allow interest at the rate of three per cent upon the public deposits, whenever they should exceed \$1,000,000. This was negatived, yeas 23, nays 24, as was a motion of Mr Benton, to refer the bill to the Secretary of the Treasury, for his opinion as to the expediency of renewing the charter at the present session,

yeas 10, nays 37. The bill was prepared by the 9th of June for a third reading, and after an unsuccessful effort to indefinitely postpone it, it was ordered to a third reading, yeas 25, nays 20, and on the 11th of June was passed, yeas 28, nays 20.

When it came into the House, strenuous exertions were made to postpone its consideration, but that body having refused by a vote of 111 to 88, to lay the bill upon the table, the minority yielded to a motion of Mr McDuffie, that it be made the special order of the day for the 18th of June. The House was then, however, engaged in the consideration of the tariff, and it was not until the 30th of June, that the subject was taken up in the committee of the whole. A motion then made for its postponement to the next session, was negatived, yeas 75, nays 100, and Mr McDuffie proposed an amendment to that section, which limited the number of branches in each State, providing, that the existing branches should not be interfered with. Various attempts were then made to alter this proposed amendment, so as to incorporate in the bill all the provisions, with which its opponents sought to restrict the bank.

Mr Beadsley moved as an amendment, that the Secretary of the Treasury should first certify, that the branches retained are necessary in transacting the public business of the United States, which was negatived, yeas 57, nays 113.

Mr Wardwell moved, that the branches be liable to be taxed by the States to an amount not ex-



ceeding one per cent annually, — negatived, yeas 89, nays 93.

Mr Warren R. Davis moved an amendment, declaring that nothing in this act should be construed as exempting the bank from being taxed by the States, — negatived yeas 81, nays 103.

Mr Wayne then moved that the branches pay an annuity of one per cent to the States wherein they are situated, — negatived, yeas 67, nays 109.

Mr Hubbard moved, that the States be permitted to tax to the amount of half per cent, — negatived, yeas 81, nays 90.

Mr Bell moved, that the States be permitted to tax the profits of their respective branches to the same extent, that they tax the income of their local banks and of their own citizens, — negatived, yeas 88, nays 94.

Mr Mann moved, that a tax of one per cent be laid upon all the stock held by foreigners, — negatived, yeas 69, nays 110.

Mr Clayton moved, that foreigners be not permitted to hold stock in the bank under penalty of forfeiture, and asked the yeas and nays; but the house refused to order them, and negatived the motion without a division.

Mr Lewis moved to limit the rate of interest at five per cent, — negatived, yeas 83, nays 103.

Mr Clayton also moved an amendment by which Congress could incorporate other banks, which was also negatived.

Mr McKay moved to subject the foreign stock to the same taxation, that was levied by the states on the stock of resident citizens, — negatived, yeas 79, nays 101.

Amendments were then moved, to prevent stockholders from receiving discounts to a larger amount than half of the stock owned by them, and to prevent officers or agents of the bank from voting at elections or proxies, both of which were negatived without a division.

Mr Thomas then moved to increase the annual bonus, to \$250,000, — negatived, yeas 74, nays 109.

Mr Coulter moved to provide for an annual committee of inquiry into the affairs of the bank, consisting of one Senator and two members of the House, which was negatived without a division. Mr McDuffie's amendment was then carried, and a motion being made by Mr Lewis to reduce the rate of interest to five per cent, the previous question was moved by Mr Barbour, but it was negatived, yeas 82, nays 95. It was, however, moved again the next day, July third, by Mr Dearborn, and carried, yeas 96, nays 82. The bill was then ordered to a third reading, yeas 106, nays 84. A motion was then made to suspend the rule of the House, in order to permit the third reading of the bill the same day and carried, yeas 124, nays 61. The previous question was again called, and ordered, 109 to 76, and the bill was then passed with Mr McDuffie's amendment, yeas 107, nays 85.

The Senate concurred in the amendment, and the bill was then sent to the President for his approbation and signature. It was by many apprehended, that the President would resort to the

mode previously adopted by him to avoid the responsibility of rejecting bills, that he disapproved of, and that he would retain it until after the adjournment of Congress.

To prevent this, the Senate declined acting on the resolution for an adjournment, until the bill had been sent to him for concurrence, and then the 16th of July was inserted, so as to leave ten full days, exclusive of Sundays, by which he was compelled to return the bill to Congress, or to permit it to become a law. Accordingly, the next day after the Senate had fixed the time of adjournment, a message was sent to that body, stating the reasons of the President for refusing his signature to the bill.

They are in substance as follows.

1st. That a monopoly is granted to the present stockholders, for which the bonus is not a fair equivalent.

2d. That more than one fifth of the stock is held by foreigners.

3d. Because the provision, enabling State banks to pay their balances in branch notes, is partial towards banking establishments at the expense of the community.

4th, Because the concession to the States, to tax the stock held by their own citizens, operates in favor of foreign stockholders, and makes the stock worth more to them, than to resident stockholders; and will render the American people debtors to aliens by vesting the stock in foreign hands.

5th, Because by the greater part of the stock going out of the country the control over the institution will

be vested in a few stockholders; and great evils are to be apprehended, by so formidable a power being concentrated in a small body, without responsibility to the people, and who, moreover, will be peculiarly accessible to be influenced by the foreign stockholders.

6th, Because the law creating a bank is not one of the necessary and proper means vested in Congress, to carry into effect its constitutional powers.

7th, Because the private business of the bank is exempted from State taxation.

8th. Because there are strong suspicions of gross abuse in the management of its affairs.

9th. Because the Executive was not consulted, as to the propriety, of the provisions of an act creating a bank, as an agent of one of its departments.

10th. Because the bank tended to increase the power of the rich, and to add to the artificial distinctions already existing in society.

For these reasons, which will be found at length in the Message, page 60, of the Appendix, the President returned the bill to the Senate, where it originated, for reconsideration.

The message having been read, Mr Webster moved, that the senate should proceed to re-consider the bill the next day. At the appointed hour, the bill being again brought under the consideration of the Senate, Mr Webster began to comment upon the contents of the Message.

The President, he said, so far from evading the question, had given a clear expression of his

own judgment. that, under no circumstances, now or hereafter, should his approbation ever be given to any bill for the renewal of the charter of the present bank, or for the constitution of any similar one.

It was now certain, that, without a change in the public councils, the charter of the bank of the United States would be suffered to expire, by its own limitation. Within three years and nine months, (the remainder of its term) arrangements would have to be made for calling in its debts, withdrawing its notes from circulation, and ceasing its operations. All this would have to be done within that period, for, although by its charter, provision was made for allowing it further time for the collection of its debts, &c, yet, after the expiration of its term, it can issue no new paper, nor answer any of the purposes of a bank of discount. He said it behooved all who were interested in public affairs, without exaggeration on the one side, or delusion on the other, to prepare themselves to meet the crisis. He then went on to show the great importance of the present question, more especially to the States connected with the waters of the Mississippi, within whose limits thirty millions of active capital had been furnished for business by the bank. He drew a picture of the consequences likely to flow, from all this facility being withdrawn within four years, and of the deep distress, which must inevitably follow its withdrawal. To the people of the United States, he said,

it was now plainly put, whether, in one way, and in one way only, (for the message left no alternative) this evil was to be avoided. Mr W. then proceeded with some remarks upon the President's objections to the bill. The first, which he adverted to, was the objection to the application of the bank for the renewal of its charter, on the ground that it was premature.

After adverting to the undoubted right of Congress to exercise a discretion as to the time, at which they would act upon this subject, he said it was neither Congress nor the bank that had first agitated the question: for that the executive had not only once, but twice, and thrice, called on Congress to act upon the subject. He argued, that it could not be premature, in 1832, to do that, which the President had invited them to do as far back as December, 1829. There was another point of view, in which, he said this remark might have been spared: he meant in reference to those States of the Union extremely interested in this measure, and which had instructed their representatives, not only to vote for the renewal of the charter of the bank, but to vote for it now, at this present session. But, he added, why disguise the fact? This was a question, on which it was very interesting to all the people, to know what were the opinions of the public servants. The time had come, when the people had a right to know how their servants, from the highest to the lowest, intended to act up-

on this matter. It was, therefore, proper, that the subject should be acted upon at the present session. The result proved it. No one could doubt, after reading this message, that the question had been agitated not a moment too early. The election of a chief magistrate was about to take place : a doubt had existed as to what was the opinion of the present chief magistrate upon this subject ; was it not fit, proper, and expedient, that that doubt should be resolved ? In this view, the message, he said, so far from proving the application of the bank at this session to have been premature, carried on its face the proof of its being indispensable. The very fact of the constitutional objections of the President to the bank, and that, under his auspices, no such bank could ever be rechartered or created, demonstrated the necessity of action upon it at the present session. He touched, also, upon another suggestion of the message in relation to the prematurity of the application ; which was, that it would be the fault of the bank, if its affairs were not wound up within the period of its charter. This, he said, would be impossible, unless the bank were governed by angels instead of men. If the interest paid by the people of the Western States was as heavy a drain upon them, as represented by the message ; how much heavier a drain, he argued, would that be which, within four years, would draw from them, not only this interest, but the principal upon which the interest was paid ? He enlarged upon the circum-

stances of the Western country ; which made money more valuable there than in the Atlantic States, and on the distress, which would be produced by withdrawing from them seven and a half millions of dollars a year, for which they were now paying but six per cent interest to the bank of the United States, upon the substitute for which capital, they would have to pay a much higher rate of interest.

Mr W. then proceeded to review the objections of a constitutional nature contained in the message, the different parts of which, he intimated, were evidently from different hands.

He maintained, that the argument drawn from precedent was decidedly in favor of the bank, instead of being against it.

For thirty-six years out of the forty-three, during which the government has been in being, a bank has existed, such as is now proposed to be continued. As early as 1791, after great deliberation, the first bank charter was passed by Congress, and approved by President Washington. It established an institution resembling in all things, which are now objected to, the present bank. This bank continued twenty years. In 1816, the present institution was established, and has been ever since in full operation. The power to create such an institution, has been contested in every mode known to our constitution. It has been discussed over and over again in Congress : it has been argued, and solemnly adjudged in the Supreme Court : every President except the pres-



ent, has considered it a settled question : many of the state legislatures have instructed their senators to vote for the bank : the tribunals of the states in every instance, have supported its constitutionality ; and the general public opinion of the country has at all times given, and does now give its full sanction to the exercise of this power, as within the meaning of the constitution.

If this practice, of near forty years, these repeated exercises of the power, the solemn adjudication of the Supreme Court, with the concurrence and approbation of public opinion, do not settle the question, how is a question to be settled. These legislative precedents all assert, and maintain the power, and having been the law of the land for forty years, they settle the construction of the constitution, so far as it can be settled by legislative precedents.

But if the President thinks lightly of the authority of congress, in construing the constitution, he thinks more lightly of the authority of the Supreme Court. He asserts a right of individual judgment on constitutional questions, which is totally inconsistent with any proper administration of the government, or any regular execution of the laws.

Hitherto it has been supposed, that the final decision of constitutional questions, belonged to the supreme judicial tribunal. It is true, that each branch of the legislature has an undoubted right, in the exercise of its functions, to consider the constitutionality of the law, proposed to be passed.

This is part of its duty, and neither branch can be compelled to pass any law, which it deems to be beyond the reach of its constitutional power. The President has the same right, when a bill is presented for his approval. But when a law has been passed by Congress, and approved by the President, it is no longer in the power of that President, nor of his successors to say, whether the law is constitutional or not. He is not at liberty to disregard it — to feel or to affect constitutional scruples, — and to sit in judgment upon the validity of a statute of the government. The question of its constitutionality then becomes purely a judicial question, in the courts, that may be raised, argued and adjudged, but nowhere else.

The President is as much bound by the law, as any private citizen. He may refuse to obey it, and so may a private citizen, but both do it at their own peril, and neither of them can settle the question of its validity. The judiciary alone possess this unquestionable and hitherto unquestioned right. The judiciary is the constitutional tribunal of appeal, for the citizens, both against Congress and the Executive, in regard to the constitutionality of laws. It has this jurisdiction expressly conferred upon it, and when it has decided the question, its judgment must from its very nature, be conclusive. Hitherto this opinion, and a correspondent practice, have prevailed in this country. If it were otherwise, there would be no government of laws ; but we should all live un-

der the government, and caprice of individuals. If the reasoning of the message be correct, the President may refuse to put into execution one law, pronounced valid by all branches of the government, and yet execute another, which may have been by constitutional authority pronounced void. Upon the argument of the message, the President of the United States holds, under a new pretence, and a new name, a *dispensing power* over the laws, as absolute as was claimed by James the Second of England, a month before he was compelled to fly the kingdom. That which is now claimed for the President is in truth, nothing less and nothing else, than the old *dispensing power* asserted by the kings of England in the worst of times. After Congress has passed the law, and after the Supreme Court has pronounced its judgment on the very point in controversy, the President has set up his own private judgment against its constitutional interpretation. It is to be remembered, that it is the present law, it is the act of 1816, it is the present charter of the bank, which the President pronounces to be unconstitutional. It is no bank *to be created*, it is no law proposed to be passed, which he denounces; it is the *law now existing*, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the supreme court, which he now declares unconstitutional, and which of course, so far as it may depend on him, cannot be executed. If these opinions of the President's be

maintained, there is an end of all law and all judicial authority. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force. Such a universal power of judging over the laws and over the decisions of the tribunal, is nothing else than pure despotism. If conceded to him, it makes him at once, what Louis the Fourteenth proclaimed himself to be, when he said, 'I am the State.' If the reasoning of the message be well founded, it is clear, that the charter of the existing bank is not a law. The bank has no legal existence; it is not responsible to government; it has no authority to act; it is incapable of being an agent; the President may treat it as a nullity tomorrow; withdraw from it all the public deposits, and set afloat all the existing arrangements of revenue and finance. It is enough to state these monstrous consequences to show, that the doctrine, principles, and pretensions of the message, are entirely inconsistent with a government of laws. If that which Congress has enacted, and the Supreme Court has sanctioned, be not the law of the land, then the reign of law has ceased, and the reign of individual opinion has already begun.

What is called the 'monopoly,' is made the subject of repeated rehearsal, in terms of special complaint. By this 'monopoly,' I suppose, is understood, the restriction contained in the charter, that Congress shall not, during the twenty years, create another bank. Now, sir, let me ask,

who would think of creating a bank, inviting stockholders into it, with large investments, imposing upon it heavy duties, as connected with the government, receiving some millions of dollars as a bonus, or premium, and yet retaining the power of granting, the next day another charter, which would destroy the whole value of the first?—If this be an unconstitutional restraint on Congress, the Constitution must be strangely at variance with the dictates both of good sense and sound morals. The President declares, that this restriction is not *necessary* to the efficiency of the bank; but that is the very thing which Congress and his predecessor in office were called on to decide, and which they did decide, when the one passed and the other approved the acts; and he has now no more authority to pronounce his judgment on that act, than any other individual in society. It is not his province to decide on the constitutionality of statutes, which Congress has passed, and his predecessors approved. There is another sentiment in this part of the message, which we should have hardly expected to find in a paper which is supposed, whoever may have drawn it up, to have passed under the review of professional characters. The message declares, that this limitation to create no other bank is unconstitutional, because, although Congress may use the discretion vested in them, ‘they may not limit the discretion of their successors.’ This reason is almost too superficial to require an answer. Every one at all ac-

customed to the consideration of such subjects, knows that every Congress can bind its successors to the same extent, that it can bind itself; the power of Congress is always the same; the authority of law always the same. It is true we speak of the twentieth Congress, and the twentyfirst Congress, but this only to denote the period of time, or to mark the successive organizations of the House of Representatives, under the successive periodical elections of its members. As a political body, as a legislative power of the government, Congress is always continuous, always identical. The message, in a strain of argument, which it is difficult to treat with ordinary respect, declares, that this restriction on the power of Congress, as to the establishment of other banks, is a palpable attempt to amend the constitution by an act of legislation. The reason, on which this observation purports to be founded, is, that Congress by the Constitution, is to have exclusive legislation over the District of Columbia; and when the bank charter declares, that Congress will create no new bank within the District, it annuls this power of exclusive legislation. I must say, that this reasoning hardly rises high enough to entitle it to a passing notice. It would be doing it too much credit, to call it plausible.

No one needs to be informed, that exclusive power of legislation is not unlimited power of legislation; and if it were, how can that legislative power be unlimited, that cannot restrain itself; that



cannot bind itself by contract? Whether as a government, or as an individual, that being is fettered and restrained, which is not capable of binding itself by ordinary obligation. Every legislature binds itself when it makes a grant, enters into a contract, bestows an office, or does any other act or thing, which is in its nature irrepealable.

Mr. Webster then dwelt on other positions of the message, which he considered untenable; such, for instance, as that everything contained in any bill passed by Congress, that was not absolutely necessary, as some features of the bank charter were said not to be, was unconstitutional. The absurdity of this last notion, he illustrated by a reference to the code of criminal law established by Congress under the general power to establish post-offices and post-roads; under which capital punishments were authorized, which might have been dispensed with, by substituting other punishments for them, and which, therefore, not being necessary, would be, under the doctrines of the message, unconstitutional. There was no power, indeed, in the Bank charter, he urged, which might not be substituted by some other of equivalent effect, and which was not, therefore, according to the sense of the message, unconstitutional.

Mr. Webster next went into an argument to show the fallacy of the other objection, which had been made, to foreigners being stockholders in the bank, which, he said, instead of putting us in

their power, so far as it goes, puts them in ours. The ten millions which they hold in the stock of the bank, so far as it had any effect, (small indeed it must be) was a hostage in our hands, favorable to our peace and prosperity. He then very seriously deprecated the effects of this denunciation, from such high authority, of the holding by foreigners of stock in American funds. He adverted to the canal stocks of several of the States — of Ohio, of Pennsylvania, of New York, the prices of which were every day quoted on the London Exchange, and which might be seriously affected, to the injury of these States, by this sweeping denunciation, if not counteracted. He ridiculed the idea of such investments of their funds in our stocks being ‘dangerous to liberty,’ which he regarded as mere declamation.

After adverting to some other parts of the message, he dwelt with great force and some severity, upon that part of the message which states, as an objection to the bank on the part of the Executive, that neither upon the propriety of present action, nor upon the provisions of this act, was the Executive consulted.

Mr. Webster said, having denied to Congress the authority of judging what powers may be constitutionally conferred on a bank, and having erected the judgment of the President himself into a standard, by which to try the constitutional questions, the message proceeds to claim for the President, not the power of approval, but the forming power,



the power of *originating* laws. The President informs Congress that *he* would have sent them such a charter, if it had been properly asked for, as they ought to possess. He very plainly intimates, that in his opinion, the establishment of all laws, of this nature at least, belongs to the functions of the Executive government, and that Congress ought to have waited the manifestations of the executive will, before it presumed to touch the subject. Such, Mr President, stripped of their disguises, are the real pretences set up in the behalf of the executive power, in this most extraordinary paper.

Mr President, we have arrived at a new epoch. We are entering on experiments, with the Government and the Constitution of the country hitherto untried, and of fearful and appalling aspect. This message calls us to the contemplation of a future, which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the government has sanctioned. It denies first principles : it contradicts truths hitherto received as indisputable. It denies to the Judiciary the interpretation of law, and demands to divide with Congress the originating of statutes. It extends the grasp of executive pretension over every power of the government. But this is not all. It presents the Chief Magistrate of the Union in the attitude of *arguing away* the powers of that government, over which he has been chosen to preside ; and adopting for this purpose modes

of reasoning, which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice, which may betray men into a mistaken view of their own interests ; and to every passion, which may lead them to disobey the impulses of their own understanding. It urges all the specious topics of state rights, and national encroachment, against that, which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows in an unsparing manner, the seeds of jealousy and ill will, against that government, of which its author is the official head. It raises a cry that *liberty is in danger*, at the very moment which it puts forth claims to powers, heretofore unknown and unheard of. It affects alarm for the *public freedom*, when nothing endangers that freedom so much, as its own unparalleled pretences. This, even, is not all. It manifestly seeks to inflame the poor against the rich ; it wantonly attacks whole classes of the people, for the purpose of turning against them, the prejudices and the resentments of other classes. It is a State paper, which finds no topic too exciting for its use ; no passion too inflammable for its address, and its solicitation. Such is this message. It remains now for the people of the United States to choose, between the principles here avowed and their government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the

message shall receive general approbation, the Constitution will have perished even earlier than the moment, which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year.

Mr White replied to Mr Webster. In the outset, he denied that any injury could result from the present message or conduct of the President, in affixing his veto to the bill; and thought it rather extraordinary that such an opinion should be entertained, or that the mischief could only be repaired by a change being made as to the person now holding the reins of power. He asked what mischief could probably result. It had been said, that pressure, to a ruinous extent, would be the consequence, if the renewal was not granted. But he could not agree to this consequence; for, although the affairs of the bank should be necessarily wound up by the cessation of its business, yet, it did not follow, that the capital employed therein would disappear from the country, or be consumed with the cessation of the business of the bank. This would not be the case. Those having money would be anxious to re-invest it in other moneyed institutions; and as to the rejection having any deleterious consequence as to the currency, that could not happen; as the local circulation requisite to all the purposes of business, would be supplied by the several State institutions. Frequent allusion had been made to the

situation in which the people of the West would be, who, it was alleged were debtors for nearly thirty millions to the bank, and it was asked, what would be, (particularly as to them,) the consequences of their being called on to pay up their debts? He considered that, when they incurred those debts, if they meant honestly, there must have been some calculation made by them, as to the payment at some period or another. But if the winding up of the concerns of the bank now, was to prove so injurious to that section of the country, how much worse for them would it be in fifteen or twenty years hence; and if in this point of view, the present was not really the best time for them to be called on to pay up those debts, he wished to hear that a better could be pointed out. If this argument was to hold good as a reason for renewing the present charter of the bank, he would be glad to know what use there was in limiting its duration at all. They ought rather to make the charter perpetual. He looked at the subject altogether in a different point of view from the honorable gentleman. Mr White asked, could society have any possible interest in sustaining a system of false credit, by which persons in embarrassed situations were but too often supported and encouraged in wild speculations, and otherwise to act in a manner extremely prejudicial to themselves, as well as the public? — He apprehended, that those persons who raised money from the bank, on

fair business paper, would pay it up without difficulty ; and that no inconvenience could arise to the community, or at least to such an extent as to make it matter worthy of being urged as an argument of renewal to the Senate, unless what he feared should prove to be the case, that the larger portion of which that debt of thirty millions was founded, was accommodation paper. But even to the persons who obtained loans on that kind of security, pay-day must sooner or later come round, and they might as well prepare for it now ; indeed, better than have the time of payment extended — and if for no other reason, he would consider it the true interest of society to put a stop to the description of business, the consequence of a vicious paper system, which was well described, on a former occasion, by the Secretary of the Treasury, to be as unsafe for the bank itself, as it was ruinous to the country.

He would say upon this subject, to the gentleman from Massachusetts, who contended, that it must involve the debtors in the valley of the Mississippi in one universal ruin, that, as the argument thus used, if good for anything, would make it necessary to grant a perpetual charter, let the ruin be what it may, he was prepared to meet it, sooner than sanction such a principle. The gentleman had charged upon the President, that he seemed to chide the Senate for introducing the subject of the bank, notwithstanding, as he alleged, that the

President himself had invited them to the consideration of the subject. Mr White said, however, he had yet to learn in what way that invitation had been given. True it was, he had called their attention to it in his early messages. But that was with a view to elicit public opinion, but not to invite action on the subject, until, in his opinion, the proper time should come round, viz. the approach of the expiration of the charter. But, if the honorable member thus considered the message of 1829, why did he not then take up the subject ? Why had he so long permitted it to lie over ? He had told the Senate, that it could not be omitted longer. Why ? That it will be necessary for the bank to know precisely the views of the Executive, as to the renewal ; that if those views were adverse to the interest of the institution, then they would use every means to defeat that re-election. If he concurred with their views, then there was no immediate necessity for the renewal. Thus, the question had been put fairly to the House and to the country. But, if this was to be the conduct of the bank now, what would it be at the expiration of the time granted by the present bill ? Will there not be then precisely the same story ? And what must be the natural consequences resulting to the country from such a state of things ? Why, it must be that whoever shall then be holding the reins of government, and who may, from the purest motives, regard this institution as



injurious to the country, will be coerced into the support of it, or risk his elevation. Was this, or could it be, endured by the country? He asked, was not this, more than most other objections, urged against the institution, among the strongest? He thought if such a time should ever arrive, that any moneyed corporation could dictate what man should be elevated, or what course chosen by public officers, it would be a most disastrous state of things. He therefore, was constrained to say, that above all other times, the present was the most unfit, the most unpropitious, that could be chosen, for the introduction of the present bill.

Mr White then replied at large to Mr Webster's remarks on the constitutional points involved in the message; in the course of his reply, arguing at some length, that the conduct of the House, when they refused the old bank an extension of time to wind up its concerns, with other circumstances, fully justified the President in considering this an unsettled litigated point; and, as such, he might well consider it unconstitutional. Mr White here quoted from the message the parts in relation to the Supreme Court, and on their decisions; which, he contended, amounted to no more than it was the President's opinion, that, if they gave any decision that he should think was unconstitutional, that he was not to be bound by it. He dissented from the doctrine of Mr Webster, and rather agreed in opinion with the President, that each branch

of the government had in such cases a right, and it was their duty to act upon their own conception of what is right.

After vindicating the message of the President, Mr White concluded by saying, that he did not think it liable to the objections that were urged by the Honorable member from Massachusetts; that whatever course the present question might take, if, notwithstanding the message, a constitutional majority of two thirds of the Senate should think it right to vote for the passage of the bill, they would do so. He, however, thought it was better that it should not now be stirred, as they had the views of the Executive on the subject, which might be acted upon at another time with more advantage. But if it was the wish of the President and directors of the bank to mix up its affairs with the politics of the day, to annoy the Chief Magistrate, it would be well, perhaps, that the country should know it—that it should go out fairly to the people, that the election of the President was to be opposed by them, because he would not yield his opinion in their favor, and that he had the manliness to stake his prospects, his character, in refusing his assent to a bill, which he believed to be injurious to the liberties of his country. Mr White did not despair, that when it should be so known, be the result what it might, and when reason would be permitted to resume her wonted empire, no man would deny him honesty of in-



tention, and that the act itself would be considered one of the most splendid that had occurred in the course of his political life.

The discussion was continued until the thirteenth of July, with

unabated animation, when the question being taken, the Senate divided, yeas 22, nays 19; and the bill not having received two thirds of the votes was of course rejected.

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## CHAPTER VII.

*Meeting of Congress. — President's message. — Apportionment bill — 48,000 reported as the Ratio — Amended in House — Proceedings in Senate — Amendment of Mr Webster — Report — Carried — Recommitted in House — Report against Amendment — Amendment rejected. — Nomination of Mr Van Buren — Opposition — Rejected — Reasons — Abuses of Government. — Wiscasset Collector — Discussion. — Assault on Mr Stanberry. — Trial of Governor Houston — Punishment. — Assault on Mr Arnold.*

THE first Session of the twenty-second Congress commenced on the fifth day of December, 1831.

Thirty-five Senators appeared at the commencement of the Session, and Samuel Smith resumed the chair as President pro tempore. In the House of Representatives, 202 members answered to their names and proceeded to organize the House. Upon balloting for speaker the vote stood

Andrew Stevenson,	-	98
Joel B. Southerland,	-	54
John W. Taylor,	- -	18
C. A. Wickliffe,	- -	15
Scattering	- -	10

The whole number of votes given being 195; Mr Stevenson received the exact number necessary to constitute a choice, and was declared elected. The oath of office was then administered to the members, and the House adjourned to the next day, when the

President of the United States transmitted his annual message to Congress. That document will be found in the Appendix, page 45.

A succinct account of the foreign relations of the United States was given therein, and Congress was congratulated upon the situation of the country.

The arrangement made with Great Britain in relation to the colonial trade was alluded to, and it was stated, that during the year ending the 30th of September, 1831, it had given employment to 30,000 tons of domestic and 15,000 tons of foreign shipping in the outward, and 30,000 tons of domestic and 20,000 of foreign shipping in the inward voyages. Advantages too were said to be secured to the agricultural interests by the trade with Canadas, which would counterbalance the loss sustained by our navigation through the discrimination to fa-

vor the trade by way of the northern colonies.

The state of the negotiation concerning the northeastern boundary was reserved to be communicated, in a special message. The message, further stated, that the claims of our merchants upon France for spoliations, had been adjusted by a satisfactory treaty; and that measures had been taken to obtain indemnity from Spain for injuries sustained since the last treaty, and from Naples for spoliations committed by the order of Murat. Measures had also been taken to chastise the pirates on the Malay coast for an attack upon an American merchantman; and for the protection of the fishermen at the Falkland islands against aggression under the authority of Buenos Ayres; and in general the aspect of the relations between the United States and foreign powers was stated to be favorable to the continuance of tranquillity and peace.

Among the subjects recommended to Congress, were a revision of the laws relating to American consuls; an extension of the judiciary system to the States of Indiana, Illinois, Missouri, Alabama, Mississippi and Louisiana; such a modification of the tariff as should bring the revenue down to the wants of the government and adjust the duties with a view of equal justice in relation to all national interests, and to the counteraction of foreign legislation against those interests; a change of the constitution so as to limit the executive to one term of service; a general reform in the system of keeping the public accounts; and the establishment of a

local legislature for the District of Columbia.

The change in the policy of the government in relation to the Indians was stated to be producing the happiest effects; the revenue was improving; and the opinions expressed in the previous message against the United States bank were reiterated, as not having been changed by experience.

Among the most urgent subjects of consideration at the present session of Congress was the apportionment of representation according to the census of 1830. By that census the southern and eastern states had lost a portion of their relative weight, and the western states had acquired a greater preponderance than before. The inefficiency of the marshals however had prevented Congress from acting, as it should have done on that subject at the last session, and of course the States that had increased more rapidly than the rest, were inadequately represented in this Congress. With the view of giving to each State the power intended by the Constitution at the next Presidential election, steps were taken to bring this subject at an early day before the consideration of the House, and on the fourth of January, Mr Polk reported a bill from a select committee appointed for the purpose, fixing upon the ratio of representation under the 5th census of the United States.

By that report, the ratio was fixed at one representative for 48,000 inhabitants, according to the federal enumeration, which

would increase the number of members to 237.

When the subject came before the House for consideration, in introducing the bill, Mr Polk observed, that the committee had felt the great difficulty, and even impossibility, of recommending any ratio of representation which should obtain the unanimous assent of the House. The representation of the people of the United States in that House depended, according to the constitution, not on the total population of the Union, but on the respective numbers of inhabitants in the several States, excluding all Indians not taxed, and also two fifths of the slaves, and including all other persons. No ratio could be adopted, which would be perfectly equal in its results upon all the States; whatever number might be fixed on as entitling to a representative on that floor, there must be fractions left in most of the States, larger in some and smaller in others. This inequality, however it might be regretted had its cause in the constitution itself. It had been so sensibly felt, when the ratio of representation was established by the first Congress, that they had attempted to remedy it by allowing to such of the States as had very large residuary fractions an additional representative. The then President of the United States, General Washington, after mature consideration, and after detaining the bill in his hands, until the last day allowed for his decision upon it, sent it back to Congress with his veto and the reasons of it; which were two, viz :

that no common divisor would give to the States the number of representatives allowed them by the bill; and that the proposed number of Representatives was greater than one for every 30,000; and that therefore the bill was unconstitutional. The House had acquiesced in this construction, and reported, accordingly, a new bill, the effect of which was, that each State lost its supernumerary fraction. This early exposition of the constitution had been afterwards regarded as settled, and had been acted on ever since. The constitution imposed but two limitations on this matter; the one was, that no State should have more representatives than one for every thirty thousand inhabitants; and, on the other hand, that every State should be entitled to one representative. The committee had recommended a number, which they considered a just medium between these two extremes. It would give a House of such dimensions, that on the one hand, the people would not be deprived of an adequate representation; and on the other, the number of members would not be such, as to render the House multitudinous, unwieldy and inconvenient. In 1790, the number fixed on as entitled to a Representative, had been 30,000; in 1800, 33,000, 1810, 35,000; and in 1820, 40,000. The bill now reported, proposed 46,000. This was a greater augmentation, than had taken place in forty years. Looking to the unavoidable inequality of the operation of any ratio they could propose, the committee had also considered



the effect of various ratios in leaving unrepresented fractions in the different States ; and after maturely considering and comparing the difficulties, they had come to the conclusion, that 48,000 distributed the fractions as equally among the States as any other number which could be fixed upon. The aggregate amount of all the fractions left by this arrangement would be 547,483. The committee had had no *criteria* from which to judge to what number of members the House would be most likely to assent. There existed a variety of opinions, whose advocates were in favor of a House, more or less numerous. If resort should be had to experience, many were of opinion, that the number of the existing House was quite large enough, and might very conveniently be continued. He had, himself, at first, agreed in this opinion ; but he had subsequently been induced to coincide with a majority of the committee in the opinion that there ought to be some proportion observed between the increase and wide spread population of the country, and its representation in that House.

They inhabited an extensive country, varying in its soil, climate, agricultural productions. Each part of the country, and every class of this community, was entitled to representation on that floor. Ten years ago, two hundred and thirteen members had not been thought too many ; it was proposed now to increase that number by the addition of *twentyfour* more members. —

Would that give a number too large, to represent all the people of the United States ? In many districts there were, at present, ten, twelve, fifteen, and even twenty counties, wholly unrepresented. One representative could not be considered as too much for 48,000 freemen. Ours, he observed, was a popular government, and such a government was best preserved by the representatives of the people. The Constitution, proceeding on that principle, had entrusted them with large powers. All money bills must originate in that House ; every tax the people had to pay must be voted by their own immediate representatives. No appropriation could be made of the public money without their consent. They possessed the sole power of impeachment. They had a concurrent voice in the question of war and peace. They were immediately entrusted with all the concerns and interests of the great body of the people. It was surely proper, that the representatives should know his constituents, and be known by them. There was a natural sympathy between electors and the elected. They were the depository of the wishes, wants, and will of the people. The senators were representatives of the sovereignties of the states, and were elected for a longer term, but the representative came fresh from the people. In turning his attention to the subject submitted to the committee, he had become aware of a fact which he had not before observed, it was, that, at the time of the adoption of the Federal Con-

stitution no fewer than *eight* of the States had presented as an objection to that instrument their fear, that the House of Representatives would never be suffered to become of a sufficient size to give the people their due weight in the government ; and in these eight States amendments had actually been proposed, with a view to guard against such a state of things. The best argument he had heard urged, in favor of a reduction of the number of members in that House was, that a smaller number would more conduce to the despatch of business. The despatch of business, and a due representation of the people were two very different things. It was very possible that a reduction of numbers would tend to despatch of business. If the House should contain but fifty, or even its minimum number of twentyfour members, it would, no doubt, get through its business in a shorter time. But in that case, would the people enjoy an adequate representation? In a despotism, or an aristocracy, there was more despatch of business ; but those forms of government were not, on that account, preferable to a republic.

The committee were fully aware that the arrangement now proposed, would be considered as pressing very hardly upon those States, whose fractions were very large. This had always been a subject of complaint, when former apportionments had been under consideration. But, according to the ratio now proposed, it would happen, that this inconvenience would press the most

heavily on States which before had been the most favored.

Mr Craig then moved to strike out the words fortyeight, which after an objection to the motion as out of order, became the topic of an animated discussion for several days. It was contended by gentlemen in favor of Mr Craig's amendment, that the number 48,000 by being retained in the bill, had so great an advantage over every other number, which could be proposed in place of it, that it was certain of being finally adopted — an advantage, to which this number was no more entitled than any other. In support of this view it was argued, that every other number which might be proposed would be voted for, not on the ground of its own intrinsic title to favor, but in comparison with the number fortyeight. Thus, if the number fortyfive should be proposed by any member, the question every gentleman would propose to himself, would be not, do I prefer fortyfive to every other number, but do I prefer fortyfive to fortyeight, and the consequence would be that the number fortyfive would have in its favor those gentlemen only who preferred fortyfive to every other number ; while it would have against it all those who preferred fortyeight, and also all others who, though they might not prefer fortyeight for itself, would rather have fortyeight than fortyfive. Thus the friends of the number fortyeight would be a perpetual quantity, always adding to the opponents of every other number ; which by thus defeating every othe

number, would finally insure the adoption of the number forty-eight. Whereas, should the number fortyeight be stricken out and the bill left in blank, all numbers proposed would have an equal chance.

To this it was replied, that the alleged advantage enjoyed by the number 48,000 as being in the bill, was rather imaginary than real, inasmuch as if there was a real majority of the House in favor of any other number than fortyeight, it could in a moment strike fortyeight from the bill, and insert that other number in its place; and if there was not a majority of the House in favor of any other number, even if the bill were in blank, that number could never be inserted. In fact, if the bill had been reported in blank, the blank in the bill would enjoy every preference which the number fortyeight now did, because all the members who were opposed to any given number, would prefer the bill remaining in blank to having that number inserted; and the matter amounted to just this, that as long as no majority could be obtained in favor of any one proposed number, no bill could be reported, and the ratio of representation must be left where it was until another Congress.

Other gentlemen who took the other side of the question, compared all the numbers that might be named, as well that in the bill as every other, to so many competing candidates at an election by ballot; between the advocates of which successive compromises had to be made, until some one

candidate obtained a majority of all the votes. It was generally admitted that the Select Committee in reporting a bill containing a specific number, had done no more than their duty, having strictly complied with the words of the resolution which created them; but at the same time it was noticed that the number reported in the bill operated more favorably to the State (Tennessee) from which the Chairman of the committee came, (Mr Polk,) and that the number fortyseven would have distributed the fractions more equably.

This insinuation was warmly repelled by Mr Polk, who stated that a majority of the committee came from other States; that he had given his own vote last; and that the advantage to Tennessee was purely accidental.

Mr Craig's motion after several unsuccessful attempts to substitute another number in the place of 48,000 was rejected, yeas 84, nays 93; and the House in committee of the whole thus determined to retain the number of 48,000.

The bill was reported to the House without amendment, on the 26th of January, when Mr Wickliffe moved to recommit it to a special committee to strike out the number fortyeight, but it was negatived, yeas 76, nays 116. A motion also made by him to strike out the same number was rejected, yeas 94, nays 99.

Mr Hubbard then moved to substitute 44,000 for 48,000 and it was carried, yeas 98, nays 96. This motion, however, was re-



considered the next day (February 2d) yeas 100, nays 94, and on the seventh of February, decided in the negative, yeas 88, nays 102.

A motion by Mr Clay of Alabama, to substitute 47,000 for 48,000, was negatived, yeas 65, nays 127; as was a motion of Mr Kerr to substitute 45,000, yeas 68, nays 118; and a motion of Mr Doddridge to substitute 46,000, yeas 71, nays 117. Mr Vance then moved to substitute 44,400, and it was carried by the casting vote of the speaker, yeas 97, nays 97. The number proposed by the committee having been stricken out, amendments were proposed from all quarters, with a view of obtaining that ratio, that would give the least fraction to the respective states of the members. making the motion. After taking the yeas and nays several times without altering the ratio, Mr Evans at last succeeded in substituting 44,300 in place of 44,400, yeas 108, nays 87. 50,000, 49,000, 60,000, 51,000 were then proposed in succession, and finally the bill was recommitted upon motion of Mr Polk, with instructions to insert 47,700, yeas 104, nays 91.

The next day (February 15th) when the bill was reported as amended, the efforts were renewed to obtain a different ratio, but the House had now become weary of this protracted contest, and the bill was ordered to a third reading, yeas 119, nays 75, and it passed on the 16th, yeas 130, nays 58.

The struggle, however, was not at an end. In the Senate the bill

was referred to a select committee, from which it was reported without amendment. On the first of March it came under consideration, and Mr Webster moved an amendment which gave to the States having large fractions an additional representative.

Upon motion of Mr Forsyth, that part of the amendment, which provided for the representation of fractions was stricken out, yeas 24, nays 23; the amendment was then rejected, yeas 27, nays 20.

On the fourteenth of March, however, Mr Webster again moved, that the bill be recommitted, with directions to amend it as proposed before, and the vote on Mr Forsyth's motion having been reconsidered, yeas 26, nays 20, the bill was recommitted.

On the fifth of April, the bill was again reported with an amendment, which professed to give to each State a representation, that should bear the same proportion to the whole number of the House, that its federal population bore to the whole population of the United States. In support of this proposition, Mr Webster, in the report accompanying the bill, submitted the following reasons. 'That although the bill as passed by the House, does not commence by fixing the whole number of the proposed House of Representatives, yet the process adopted by it brings out the number of two hundred and forty members. Of these two hundred and forty members, forty are assigned to the State of New York; that is to say, precisely one sixth part of the whole.



This assignment would seem to require that New York should contain one sixth part of the whole population of the United States ; and would be bound to pay one sixth part of all her direct taxes. Yet neither of these is the case. The whole representative population of the United States is 11,929,005 ; that of New York is 1,918,623, which is less than one sixth of the whole, by nearly 70,000. Of a direct tax of two hundred and forty thousand dollars, New York would pay only 38.59.

The ratio assumed by the bill leaves large fractions, so called, or residuary numbers, in several of the small States, to the manifest loss of a part of their just proportion of representative power. Such is the operation of the ratio, in this respect, that New York, with a population less than that of New England by thirty or thirtyfive thousand, has yet two more members than all the New England States : and there are seven States in the Union whose members amount to the number 123, being a clear majority of the whole House, whose aggregate fractions altogether amount only to fifty-three thousand : while Vermont and New Jersey, having together but eleven members, have a joint fraction of seventyfive thousand.

But the subject is capable of being presented in a more exact and mathematical form. The House is to consist of two hundred and forty members. Now, the precise portion of power, out of the whole mass presented by

the number two hundred and forty, which New York would be entitled to according to her population, is 38.59 ; that is to say, she would be entitled to 38 members, and would have a residuum or fraction ; and even if a member were given her for that fraction, she would still have but thirtynine : but the bill gives her forty.

The words of the constitution are ‘representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative.’

There would seem to be little difficulty in understanding these provisions. To *apportion*, is to distribute by right measure ; to set off in just parts ; to assign in due and proper proportion.— These clauses of the constitution respect not only the portions of power, but the portions of the public burden also, which should fall to the several States ; and the same language is applied to both. Representatives are to be appor-

tioned among the states according to their respective numbers, and direct taxes are to be apportioned by the same rule. The end aimed at, is, that representation and taxation should go hand in hand ; that each State should be represented in the same extent, to which it is made subject to the public charges by direct taxation. But, between the apportionment of representatives and the apportionment of taxes, there necessarily exists one essential difference. Representation founded on members, must have some limit ; and being, from its nature, a thing not capable of indefinite subdivision, it cannot be made precisely equal. A tax, indeed, cannot always, or often be apportioned with perfect exactness ; as, in other matters of account, there will be fractional parts of the smallest coins, and the smallest denomination of money of account, yet, by the usual subdivisions of the coin, and of the denomination of money, the apportionment of taxes is capable of being made so exact, that the inequality becomes minute and invisible. But representation cannot be thus divided. Of representation there can be nothing less than one representative ; nor by our constitution more representatives than one for every thirty thousand. It is quite obvious, therefore, that the apportionment of representative power can never be precise and perfect. There must always exist some degree of inequality. Those who framed, and those who adopted the constitution, were, of course, fully acquainted with this necessary operation of the provision.

In the Senate, the States are entitled to a fixed number of Senators ; and therefore, in regard to their representation, in that body, there is no consequential or incidental inequality arising. But being represented in the House of Representatives according to their respective numbers of people, it is unavoidable that, in assigning to each State its number of members, the exact proportion of each, out of a given number, cannot always or often be expressed in whole numbers ; that is to say, it will not often be found that there belongs to a State exactly one tenth, or one twentieth, or one thirtieth of the whole House, and, therefore, no number of representatives will exactly correspond with the right of such State, or the precise share of representation which belongs to it, according to its population.

The constitution, therefore, must be understood not as enjoining an absolute relative equality — because that would be demanding an impossibility — but as requiring of Congress to make the apportionment of representatives among the several States, according to their respective numbers, *as near as may be*.

The committee are of opinion in this case, that the simplest and most obvious way of proceeding is also the true and constitutional way. To them it appears that, in carrying into effect this part of the constitution, the first thing naturally to be done, is, to decide on the whole number of which the House is to be composed ; as when, under the same clause of the constitution, a tax is to be apportioned among the

States, the amount of the whole tax, is, in the first place, to be settled.

When the whole number of the proposed House is thus ascertained and fixed, it becomes the entire representative power of all the people in the Union. It is then a very simple matter, to ascertain how much of this representative power each State is entitled to by its numbers. If, for example, the House is to contain 240 members, then the number 240 expresses the representative power of all the States: and a plain calculation readily shows how much of this power belongs to each State. This portion, it is true, will not always nor often be expressed in whole numbers, but it may always be precisely exhibited by a decimal form of expression. If the portion of any State be seldom, or never, one exact tenth, one exact fifteenth, or one exact twentieth, it will still always be capable of precise decimal expression, as one tenth, and two hundredths, one twelfth and four hundredths, one fifteenth and six hundredths, and so on. And the exact portion of the State being thus decimally expressed, will always show, to mathematical certainty, what integral number comes nearest to such exact portion. For example, in a House consisting of 240 members, the exact mathematical proportion, to which her numbers entitle the State of New York, is 38.59: it is certain, therefore, that 39 is the integral, or whole number nearest to her exact proportion of the representative power of the Union. Why,

then, should she not have thirtynine? and why should she have forty? She is not quite entitled to thirtynine; that number is something more than her right. But allowing her thirtynine, from the necessity of giving her whole numbers, and because that is the nearest whole number, is not the constitution fully obeyed when she has received the thirtyninth member? Is not her proper number of representatives then apportioned to her, as near as may be? And is not the constitution disregarded, when the bill goes further, and gives her a fortieth member? For what is such a fortieth member given? Not for her absolute numbers: for her absolute numbers do not entitle her to thirtynine. Not for the sake of apportioning her members to her numbers as near as may be, because thirtynine is a nearer apportionment of members to numbers than forty.

But it is said that, although a State may receive a number of representatives, which is something less than its exact proportion of representation, yet that it can, in no case, constitutionally receive more. How is this proposition proved?

The whole number of representatives of which the House is to be composed, is, of necessity, limited. This number, whatever it is, is that which is to be apportioned, and nothing else can be apportioned. This is the whole sum to be distributed. If, therefore, in making the apportionment, some States receive less than their just share, it must necessarily follow that some other States

have received more than their just share. If there be one State in the Union with less than its right, some other State has more than its right; so that the argument, whatever be its force, applies to the bill in its present form, as strongly as it can ever apply to any bill.

But the objection most usually urged against the principle of the proposed amendment, is, that it provides for the representation of fractions. Let this objection be examined and considered. Let it be ascertained, in the first place, what these fractions, or fractional numbers, or residuary numbers, really are, which it is said will be represented should the amendment prevail.

A fraction is the broken part of some integral number. It is, therefore, a relative, or derivative idea. It implies the previous existence of some fixed number, of which it is but a part or remainder. If there be no necessity for fixing or establishing such previous number, then the fraction resulting from it, is itself not matter of necessity, but matter of choice or of accident. Now, the argument, which considers the plan proposed in the amendment as a representation of fractions, and therefore unconstitutional, assumes as its basis, that, according to the constitution, every member of the House of Representatives represents, or ought to represent, the same, or nearly the same number of constituents; that this number is to be regarded as an integer; and any thing less than this is therefore called a fraction or a residuum, and can-

not be entitled to a representative. But all this is not the provision of the constitution of the United States. That constitution contemplates no integer, or any common number for the constituents of a member of the House of Representatives. It goes not at all into these subdivisions of the population of a State. It provides for the apportionment of representatives *among the several States*, according to their respective numbers, and stops there. It makes no provision for the representation of districts, of States, or for the representation of any portion of the people of a State less than the whole. It says nothing of ratios or of constituent numbers. All these things it leaves to State legislation.

All that congress is at liberty to do, as it would seem, is to divide the whole representative power of the Union into twenty-four parts, assigning one part to each state as near as practicable, according to its right, and leaving all subsequent arrangement, and all subdivisions, to the State itself.

The two Houses of Congress passed a bill, after the first enumeration of the people, providing for a House of Representatives which should consist of 120 members. The bill expressed no rule or principle, by which these members were assigned to the several States. It merely said, that New Hampshire should have five members, Massachusetts ten, and so on; going through all the States, and assigning the whole number of one hundred and twenty.— Now, by the census, then recent-



ly taken, it appeared that the whole representative population of the United States was 3,615, 920; and it was evidently the wish of Congress to make the House as numerous as the constitution would allow. But the constitution has said that there should not be more than one member for every thirty thousand persons.

President Washington adopted that construction of the constitution which applied its prohibition to each State individually. He thought that no State could, constitutionally, receive more than one member for every thirty thousand of her own population. On this, therefore, his main objection to the bill was founded. That objection he states in these words:

“The constitution has also provided that the number of representatives shall not exceed one for every thirty thousand; which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States more than one for every thirty thousand.”

It is now necessary to see what there was further objectionable in this bill. The number of one hundred and twelve members was all that could be divided among the States, without giving to some of them more than one member for thirty thousand inhabitants. Therefore, having allotted these one hundred and twelve, there still remained eight of the one hundred and twenty to be assigned; and these eight the bill

assigned to the States having the largest fractions. Some of these fractions were large and some were small. No regard was paid to fractions over a moiety of the ratio, any more than to fractions under it. There was no rule laid down, stating what fractions should entitle the States to whom they might happen to fall, or in whose population they might happen to be found, to a representative therefor. The assignment was not made on the principle that each State should have a member for a fraction greater than half the ratio; or that all the States should have a member for a fraction, in all cases where the allowances of such member would bring her representation nearer to its exact proportion than its disallowance. There was no common measure, or common rule adopted, but the assignment was matter of arbitrary discretion.

In regard to this character of the bill, President Washington said, ‘the constitution has prescribed that representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of representatives proposed by the bill.’

In the opinion of the committee, no such objection applies to the amendment recommended by them. That amendment gives a rule, plain, simple, just, uniform, and of universal application. The rule has been frequently stated. It may be

clearly expressed in either of two ways. Let the rule be, that *the whole number of the proposed House shall be apportioned among the several States according to their respective numbers, giving to each State that number of members, which comes nearest to her exact mathematical part or proportion*; or, let the rule be, that *the population of each State shall be divided by a common divisor, and that, in addition to the number of members resulting from such division, a member shall be allowed to each State whose fraction exceeds a moiety of the divisor*.

Either of these is, it seems to the committee, a fair and just rule, capable of uniform application, and operating with entire impartiality. There is no want of a common proportion, or a common divisor: there is nothing left to arbitrary discretion. If the rule in either of these forms be adopted, *it can never be doubtful how every member of any proposed number for a House of Representatives, ought to be assigned*. Nothing will be left in the discretion of Congress: the right of each State will be a mathematical right, easily ascertained, about which there can be neither doubt nor difficulty; and in the application of the rule, there will be no room for preference, partiality, or injustice. In any case in all time to come, it will do all that human means can do, to allot to every State in the Union its proper and just proportion of representative power.

This argument in favor of the representation of fractions was

fully considered, and on the 24th of April the bill with the proposed amendment, was taken up in the Senate and after discussing the principle of the amendment, that and the ensuing day, it was carried by the casting vote of the Vice President, yeas 22, nays 22. The Vice President said he had carefully weighed the arguments on both sides, and being convinced that the bill as it came from the House conflicted with the meaning of the constitution, he was constrained to vote for the amendment.

Mr Hayne then moved to fill the blank with 241, it being nearest the number the House had inserted in the bill; but Mr Clayton having proposed 256, the question was necessarily taken on the highest number, which was negatived, yeas 19, nays 22.

Mr Webster then moved to fill the blank with 251, which was carried, yeas 27, nays 14. The amendment was then engrossed, and the bill ordered to a third reading, yeas 23, nays 20, and on the 26th of April the bill was passed, yeas 20, nays 18.

In the House, however, this attempt to interfere with what that body considered one of its peculiar prerogatives was not received with favor.

The bill as amended was referred to a select Committee, who reported against the amendment of the Senate.

The principle of the amendment, say the committee in their report, is, first, to fix the number of the House, and then to apportion them among the States on a ratio ascertained from the consolidated

federal population of the United States, so as to give to each State a representative of each number of times the population of such State may contain such ratio, and, also, one additional representative to each State for any fraction of its population greater than one half that ratio; and to leave unrepresented all fractions in each State less than one half such ratio, though the aggregate of such minor should exceed the aggregate of such major fractions. Upon this principle, the amendment of the Senate allots, to eleven of the States, each, one representative for fractions; and the question presented by it is, shall fractions be represented, or can they be represented according to the constitution?

By the second section of the first article of the constitution, it is provided that 'representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their *respective numbers*.

'The number of Representatives shall not exceed one *for every thirty thousand*, but each State shall have at least one representative.'

In giving practical effect to this clause of the constitution, the great object to be attained, is to do that which is just to each State. This can only be accomplished by considering each State as a separate community, entitled to representatives on account of its own strength, gaining nothing from the numbers in any other State, and losing nothing on account of any hardship to which

any other State may seem to be subjected on account of its numbers. It is to be observed that the apportionment directed to be made, is among States regarded as separate distinct communities, or masses of population, and not as parts of the consolidated population of the Union melted down into one mass or community. We are never at liberty to consider the people of the United States, as a mass, and to apportion the representatives among the States, as if the whole was one nation, but must continually keep in mind that ours is a federative republic, and that the people of each member or State must be considered and acted upon as an independent community, in all respects where their sovereignty has not been expressly surrendered. This being the case, it at once occurs to the committee, and they lay it down as a leading principle, a departure from which is not permitted by the obvious meaning of the clause in the Constitution, to which they have referred, that, whatever rule of apportionment is adopted, whether it be the rule of proportion, a ratio, or common divisor; whatever it be, it ought to be just; and, to be constitutional, it must be a uniform rule operating in all the States, and *producing some practical result in each State*.

In fixing the sense and construction of this section of the constitution, it is necessary further to remark, that representatives are quantities incapable of indefinite division, but are integral numbers, each of which is incapable of division; and that the population



of the respective States are also integral numbers, ascertained by the census, and incapable of being fixed by Congress. At the adoption of the constitution, the population of each State exceeded thirty thousand, and there was not the least probability that, at any future period, any State in the Union would have a population less than thirty thousand. As the constitution fixed the *minimum ratio*, or *constituency*, for a representative, and in the most direct terms, made it applicable not to the aggregate population of all the States, but to the population of the *several States respectively*, the just, natural, and irresistible conclusion is, that the convention who framed the constitution, intended that Congress should apportion representatives among the States, by fixing a ratio of representation, not of the population of the United States, as a *whole*, but applicable, and to be applied, to the federal population of the several States respectively. As the convention must have foreseen that Congress might, and probably would, at the early apportionments, adopt the *minimum ratio* fixed by the constitution; and as, in that event, no *fraction* of population could be represented, the just inference is, that it was intended that any such fraction never should be regarded in any such apportionment; and so clear and irresistible, in the minds of the convention, was this conclusion from the words employed, that, to avoid a mere possible, not a probable result, it was added, that '*each State*,' though its population

might be less than the ratio fixed on, '*shall have at least one representative.*'

Moreover, can it be said that a rule of apportionment is constitutional, which, in any apportionment before the last, as conceded by the principles of the amendment itself, might have operated unconstitutionally? This objection may be urged against the rule proposed by the Senate; for, at the rate of 33,000, which was the ratio of the two first apportionments, every State having a less population than 150,000, might have had more than one representative for every thirty thousand; and at the ratio of 35,000, which was that of the third apportionment, every State having less than 90,000, might, in like manner, have had more than one representative for every 30,000. And the same objection applies to any ratio less than 40,000. At any ratio, therefore, under 40,000, the rule assumed by the Senate's amendment might operate unconstitutionally; and, at the first apportionment, this rule of the Senate, of representing major fractions, would have produced the unconstitutional effect of apportioning to each of the States of Vermont and Delaware, a representative for less than thirty thousand. Since, then, the rule of apportionment must be universal and equally applicable to the population of every State; and that adopted by the Senate's amendment might in the given, and would in the specified case, have resulted in an apportionment clearly unconstitutional, the committee are of



opinion that the rule itself partakes of the unconstitutional character of its effects.

To illustrate and enforce the correctness of the conclusion to which they have come, the committee beg leave further to add, that fractions or remainders of population in the respective States, less than the common divisor or ratio assumed, cannot be represented —

1st. Because it is not representatives only, but direct taxes also, which are required by the constitution to be *apportioned*; and, in the apportionment of such taxes, no State has ever borne, or would agree to bear, a greater share of these burthens than that indicated by the actual number of its people, and not by the actual number of its members in the House of Representatives. For example, the population of the State of Delaware is about a one hundred and sixtieth part of the whole population of the United States. If the scheme of the amendment of giving a representative to fractions should obtain, she would then have two members out of a House of two hundred and fiftyone, or about a one hundred and twentyfifth part of the whole number of representatives. She would not pay a one hundred and twentyfifth part, but only a one hundred and sixtieth part of the taxes.

2d. Because the requirement of the constitution is to apportion *representatives*, and not the fractional parts of representatives, for the plain reason that the latter was physically impossible.

3d. Because, if such an ap-

portionment was permissable, it would violate its own fundamental principles, and be contrary to justice; for, as there are twenty-four States, each of which will, in all probability, ever have a fraction at any ratio, the fractions of some of these must be taken to make up the fractions of others.

4th. Because the apportionment required by the constitution is thereby directed to be made 'among the several States;' and no process of apportionment can conform to this command which does not include and apply the same rule to all the States.

5th. Because the constitution requires that representatives should be apportioned among the several States 'according to their respective numbers;' but by this, or any other scheme of representing fractions which can be conceived, we are compelled to disregard the respective numbers of the several States, in the apportionment, and to give to some only what belongs to all. We are obliged to consolidate into one mass the fractional population of all the States, and instead of giving to them, severally, what they are entitled to according to their respective numbers, we force some to contribute to the benefit of others.

There is one plain view of this question, which may be presented in very few words, which ought to be conclusive. According to the amendment, *eleven* States out of twentyfour are to have a representative, each, for about *twentyfive thousand persons*, and each of the other thir-

teen States have to produce twice that number, or very near it, for each representative apportioned to them. The plan, therefore, is partial, unequal, and unknown to the constitution, and the constructions put upon it for forty years and upwards.

The committee, in conclusion, beg leave to present one other view of this subject, for the purpose of showing, that the bill of the House apportions representatives to the States, respectively, according to the rules of proportion, and that the amendment of the Senate does not.

The ratio 47,700 assumed by the bill, and applied as a common divisor to the population of the States respectively, produces a House of 240 members; and the number assigned to each State, is its due proportion of the whole, as may be easily ascertained by working out twentyfour sums in the rule of three.

To the Senate's plan no such rule of proportion can be applied. No process or proportion based upon the population of the States, respectively, of the United States; and the number 251 assumed by the amendment as the number of the House, will give to *eleven* of the States the number assigned to them respectively by the amendment. The amendment, therefore, does not apportion representatives among the States according to any rule of proportion, and is inconsistent, therefore, with the requirement of the constitution.

The report concluded with a resolution 'that the House do not concur in the amendment of the

Senate. The minority of the Committee also presented a counter report, in which, after giving a history of the first apportionment bill, they declare, that on the whole, it appears —

1st. That, in the first apportionment, which forms a part of the text of the constitution, the convention proceeded by fixing the number of the House, and that, from a comparison of that number with the entire estimated population, a ratio was reduced.

2d. That in applying that ratio, a great indulgence was exercised towards the smaller States, in allowing them additional members beyond their exact proportion.

3d. That the principle of apportionment adopted in the present amendment, was supported by several of the most eminent members of the federal convention.

4th. And that, though the bill of 1792 was rejected by General Washington, it was believed by him, that the constitution would admit the construction which the bill placed upon it; and that he was induced with reluctance to interpose his negative.

These considerations, it is believed, are sufficient to show, that no inference can be drawn from the fate of the bill of 1792, adverse to the constitutionality of the present amendment.

The report of the minority concluded with a recommendation, that the House adopt the principle of the amendment proposed in the Senate, but that the number of the House be fixed at 256. This number was preferred as having the advantage of

preserving to each State its present representation in Congress — an advantage not possessed by 251. It was an additional recommendation of that number, that it is the exact mathematical result of the rule of proportion, applied according to the principle of the amendment.

The House, however, was not induced to alter its decision, by the ingenious reasoning of the minority, and when the bill came under consideration on the 14th of May, a strong impatience was manifested to bring the discussion to a conclusion.

The death of Mr Hunt prevented any further consideration of the bill, until the 17th of May, when, after an explanation of the report and counter report, the previous question was moved and carried, yeas 106, nays 68.

The House then disagreed to the amendment of the Senate, yeas 134, nays 57, and the bill was sent back to that body. The Senate then receded from the amendment, yeas 26, nays 19, and the bill having passed, was sent to the President for his approbation, and became a law.

The extraordinary dissolution of the cabinet during the last year, with its no less extraordinary causes, formed one of the most prominent topics in the domestic history of the United States at that period.

As part of the arrangement, it was determined that the Secretary of State (Martin Van Buren) should be sent Minister Plenipotentiary to the Court of St

James. Shortly after the organization of the new cabinet, he was accordingly appointed to that station, and in the month of August departed on his mission. This appointment of the President, was, by the constitution, subject to the supervision of the Senate; and as much dissatisfaction was indicated by the opposition, when the nature of the instructions, under which the arrangement respecting the colonial trade was made, became known, it was expected, that it would manifest itself when his nomination came before that body for confirmation. When the appointments, made during the recess, were nominated to the Senate on the seventh of December, 1831, they were referred to the proper committees, according to the practice of that body, for examination and inquiry.

On the 10th of January, the committee on foreign relations reported in favor of the nominations of Martin Van Buren, Aaron Vail, the Secretary of Legation, and Louis McLane, who had been nominated Secretary of the Treasury. On the 13th of January, the other nominations were confirmed, but the nomination of Mr Van Buren was ordered to be laid on the table, by the casting vote of the Vice President, yeas 21, nays 21. Mr Holmes also moved a resolution, directing the committee to inquire into the agency of Mr Van Buren in the dissolution of the cabinet. This resolution was not acted upon, but when the nomination came before the Senate on the twentyfourth of Janu-



ary, it was warmly opposed on two distinct grounds. Four of the senators, who were friends of the Vice President, declared themselves opposed to its confirmation, on account of the agency of Mr Van Buren in breaking up the late cabinet, and in the domestic politics of the country.

The other members, who opposed his appointment, professed to be governed by higher considerations. They contended, that in his instructions to Mr McLane in relation to the West India trade, he had evinced a manifest disposition to establish a distinction between his country and his party; to make interest at a foreign court, for that party, rather than for the country; to persuade the British Government that it was for its advantage to maintain in the United States the ascendancy of that party; and that the whole tone of those instructions was derogatory to the dignity and independence of the United States.

The passages which were relied upon, as evincing this disposition, are contained in the letter of Mr Van Buren to Mr McLane, dated July 20th, 1829, and are as follows:

‘Such is the present state of our commercial relations with the British colonies; and such the steps by which we have arrived at it. In reviewing the events which have preceded, and more or less contributed to, a result so much to be regretted, there will be found three grounds upon which we are most assailable; first, in our too long and too tenaciously resisting the right of

Great Britain to impose protecting duties in her colonies;’ second, &c.

‘The opportunities which you have derived from a participation in our public councils, as well as other sources of information, will enable you to speak with confidence, (as far as you may deem it proper and useful so to do), of the respective parts taken by those to whom the administration of this government is now committed, in relation to the course heretofore pursued upon the subject of the colonial trade. Their views upon that point have been submitted to the people of the United States; and the counsels by which your conduct is now directed, are the results of the judgment expressed by the only earthly tribunal, to which the late administration was amenable for its acts. It should be sufficient that the claims set up by them, and which caused the interruption of the trade in question, have been explicitly abandoned by those who first asserted them, and are not revived by their successors. If Great Britain deems it adverse to her interests to allow us to participate in the trade with her colonies, and finds nothing in the extension of it to others to induce her to apply the same rule to us, she will, we hope, be sensible of the propriety of placing her refusal on those grounds. To set up the acts of the late administration as the cause of forfeiture of privileges, which would otherwise be extended to the people of the United States, would, under existing circumstances, be unjust in itself,



and could not fail to excite their deepest sensibility. The tone of feeling which a course so unwise and untenable is calculated to produce, would doubtless be greatly aggravated by the consciousness that Great Britain has, by order in council, opened her colonial ports to Russia and France, notwithstanding a similar omission on their part to accept the terms offered by the act of July, 1825. You cannot press this view of the subject too earnestly upon the consideration of the British ministry. It has bearings and relations that reach beyond the immediate question under discussion.

‘I will add nothing as to the impropriety of suffering any feelings, that find their origin in the past pretensions of this government, to have an adverse influence upon the present conduct of Great Britain.’

These expressions were justly regarded as placing the American government in a supplicating attitude, before the British government; as asking favors of England, for the course taken by the dominant party in opposing the pretensions of the United States in the late controversy; and as making a merit of that opposition in the eyes of a foreign government.

This conduct had, as the opposition contended, rendered the late Secretary of State unfit to represent the country at that government, and the feeling of the majority was well expressed by one of them, in the following passage of a speech delivered on the nomination :

‘Sir, I would forgive mistakes; I would pardon the want of information; I would pardon almost anything, where I saw true patriotism and sound American feeling; but I cannot forgive the sacrifice of this feeling to mere party. I cannot concur in sending abroad a public agent who has not conceptions so large and liberal, as to feel, that in the presence of foreign courts, amidst the monarchies of Europe, he is to stand up for his country, and his whole country; that no jot nor tittle of her honor is to come to harm in his hands; that he is not to suffer others to reproach either his government or his country, and far less is he himself to reproach either; that he is to have no objects in his eye but American objects, and no heart in his bosom but an American heart; and that he is to forget self, to forget party, to forget every sinister and narrow feeling, in his proud and lofty attachment to the republic, whose commission he bears.’

Those who supported the nomination contended, that the instructions did not justify such animadversions; that by the pertinacious adherence of the late administration to its position, the door of negotiation had been closed. The opening of the negotiation was the chief difficulty. To obviate this difficulty, after a fair and full history of the transaction, these suggestions were presented to be used by the minister, as he might deem it useful and proper so to do.

If the British persisted in refusing to hear him on this subject, he was to remind them of

the circumstances that had occurred ; of the difference of opinion among ourselves concerning it ; of the abandonment by the administration of those pretences that had prevented an adjustment of it ; that they were not to be again brought forward ; that the past administration was not amenable to the British government, nor to any other than the people of the United States, who had passed upon all their acts. He was to say to the British, if it made the pretensions formerly advanced the pretext for still declining to negotiate, that the sensibility of the American people would be deeply awakened. That the tone of public feeling, by a course so unwise and untenable, would be aggravated by the known fact, that Great Britain had opened her colonial ports to Russia and France, notwithstanding a similar omission on their parts to accede in time, to the terms offered by the act of parliament. And this was to be represented as the language of entreaty, as the begging of a boon ! This menace of the public indignation ; this declaration that the late administration was neither to be censured nor praised by foreign nations ; was amenable for its conduct to no earthly tribunal but the people of the United States, was tortured into a claim of privileges, on party grounds for party purposes, and as a disgraceful attempt to throw upon a previous administration unmerited disgrace, for the sake of currying favor with a foreign power, and that power, of all others, Great Britain !

Such was the answer of the

supporters of the administration, to the charges brought against the ex-Secretary, by those who opposed his confirmation.

After a full discussion on this nomination with closed doors, the Senate finally, by the casting vote of the Vice President, resolved not to confirm the nomination, yeas 23, nays 23. Mr Van Buren was accordingly rejected ; and after having presented his credentials at the Court of St James, was compelled to return to the United States. As this was the first time that a minister of the United States had been compelled to return from his post, on account of the refusal of the Senate to concur in his appointment, great excitement was produced by this decision. The reasons set forth were subjected to severe criticism, and the rejection was by many imputed to party feeling and personal jealousy.

The friends of the Executive were urged to sustain him against an attack, which it was said was aimed at him. He was induced to come before the public and avow himself to be the author of the objectionable instructions ; and his party was persuaded to bring forward Mr Van Buren as a candidate for the Vice Presidency, as the only means of vindicating the honor of the President from a censure, which by his own confession ought to have been bestowed upon him. It was also urged, that if the Senate had been sincere in asserting, that the character of those instructions was a disqualification for a diplomatic office, Mr McLane would have shared the same fate with Mr

Van Buren. If the instructing a minister to invite a foreign government to interfere in the domestic politics of the United States, furnished a sufficient reason why the author should not represent the republic abroad, surely the execution of those instructions ought to have excluded that minister from the cabinet councils, where measures to vindicate the honor and advance the interests of the country, are originated.

The lofty sense of national honor, which could not tolerate the employment of the author of instructions so derogatory to the character of the country, would never have consented to the elevation of the ambassador by whom they were executed. This exalted feeling makes no compromise with expediency, and it regards with equal disdain, the author of a policy, which places the republic in the attitude of supplicating a foreign government, and the envoy who hesitates between the loss of his office and the presenting so abject a request at the foot of the British throne. No distinction could be made between them, which justified the different fates awarded to the ex-secretary and the minister, and the country was at a loss to comprehend the reason, why one was rejected and the other was confirmed.

In the contest that ensued, consequently, the opposition lost the advantage of the principle upon which it had rested, the recall of Mr Van Buren, and left the public to infer, that other motives had contributed to swell the vote against his appointment.

In the course of this session several attempts were made to inquire into various abuses, which were alleged to have been committed in the executive department of the government.

These, however, having been generally defeated by the numerical majority of the administration party in Congress, need not be particularly stated, with the exception of one resolution introduced on the application of a deputy inspector of the collector of Wiscasset.

This inspector made an affidavit, that the collector of that port required him to leave with him 25 per cent of his fees, and that he was dismissed from his office because he refused to do it. This contribution was said to have been exacted, for the purpose of defraying the electioneering expenses of the administration party; and as this charge of a corrupt employment of the patronage of the government, so nearly affected the character of those administering it, it was supposed, that they would have been anxious for a full investigation. A motion was accordingly made by Mr Evans on the 23d of March, when the affidavit was laid before the House, directing the committee on the judiciary to inquire into the charges, and to report what steps were necessary to be taken in relation thereto. Such an inquiry, however, was not acceptable to the party in power, and on the 27th of March, Mr Davis of S. C., from that committee, reported that the committee be discharged from its further consideration, and that it be referred to the secretary of the



treasury. This motion was opposed, on the ground, that the offence charged was of the gravest and most flagitious description, being in the first place the proposal of a corrupt agreement by an officer in the service of the United States, to receive one fourth of the annual salary of a subordinate in his employ, and an attempt at subornation of perjury, for the purpose of concealing the crime; that the House of Representatives, as the grand inquest of the nation, was bound to take cognizance of, and to investigate charges so weighty and important; that the judiciary committee had been expressly charged with this duty, and clothed with requisite powers for its performance; that it was due both to the accuser and the accused, as well as to the nation at large, that an immediate, thorough, and impartial investigation should be gone into; and that it would be improper for the House to shift off that duty upon a subordinate department, where the accuser might not have the same advantages in substantiating the truth of his charge, and where, if the charge were substantiated, the punishment, consisting of mere dismissal from office, would not have the same publicity, emphasis, and solemnity, which the importance of the case called for.

The motion was advocated on the ground, that the ordinary course pursued in cases where officers engaged in collecting the customs were charged with malconduct, was to refer the accusations to the secretary of the treasury, who thereupon directed

a full and fair investigation of all the circumstances before the district attorney of the United States, who reported to the department the whole of the evidence on which the secretary acted, and dismissed or retained the officer according as he was proved guilty or innocent. There was no reason, in the present instance, for departing from the ordinary practice. No reasonable doubt could be entertained, that should the facts stated in the accusation be established, the gentleman at the head of the treasury department would promptly dismiss the individual concerned. That this was the readiest way of coming at truth, and doing justice in the case. That should the House undertake to entertain complaints of this nature, every accusation, however frivolous, malicious, or ill-founded, would be brought there, and its time taken up unnecessarily and improperly, in doing what was now better done by the department.

It would be very inexpedient to put the nation and the government to the expense and trouble of an impeachment, whenever a dismissed subordinate chose to take vengeance upon the officer who had discharged him, by preferring charges against him of a criminal nature.

The discussion on this motion was continued during the hour devoted to the consideration of resolutions until the 26th of May and the conduct of the executive department in interfering with elections, and exercising the patronage of the government to influence the public mind, was severely arraigned and as warmly



defended. On that day, with a view of preventing further discussion, Mr Grennell demanded the previous question, and being sustained by the House, the motion was carried. Upon discharging the committee the vote stood, yeas 111, nays 65, and upon referring it to the Secretary of the Treasury, yeas 114, nays 53. In the course of the debate upon this motion, Mr Stanberry, of Ohio, made the following remarks, which occasioned a great sensation in the House :

Mr Stanberry said, he hoped the motion to discharge the committee on the judiciary, from the further consideration of this matter, would not prevail. It is admitted, (said he,) that the collector is an officer, liable to be impeached by the constitution; and that, if the charges made against him be true, they constitute an impeachable offence. But it seems to be thought that, because he was appointed by the President, and removable at his pleasure, that it would be encroaching upon the President's prerogative, for this House to meddle with the officer. I rise chiefly for the purpose of entering my protest against this doctrine. If this House sanction it, we will relinquish the most salutary power vested in us by the constitution.

'Is it certain, if the most satisfactory proof were made of the guilt of this officer, that he would be removed by the head of the treasury department, or by the President? Sir, the people whom I represent, have tried the experiment of endeavoring to effect the removal of a United States'

officer by making complaints against him to the head of a department. The superintendent of the Cumberland road in Ohio was guilty, not only of defrauding the government, but of oppressing and defrauding individuals, with whom contracts were made for the construction of the road. Added to this, he was notoriously incompetent for the discharge of the duties of his office. Complaints were made to the late secretary of war, who sent a respectable and intelligent officer of the army to investigate the charges. This officer, (Major Talcott,) did on the spot enter into a laborious investigation of the conduct of the superintendent. He took the testimony of witnesses on oath, and the superintendent had every opportunity of making his defence. The testimony, accompanied by the report of Major Talcott, was transmitted to the war department. I have heard, (for I have not read the testimony or the report, but I have no doubt of the fact,) that the testimony did most fully prove the charges made against the superintendent, and the report of Major Talcott recommended his removal. Well, sir, was the superintendent removed? No such thing. He still holds the office; and, notwithstanding the great interest which Ohio has in the continuation of this road, I believe most of her representatives feel almost indifferent whether any further appropriations be made, i. this superintendent is permitted to hold his office. We know that the money will be wasted, and that the work will languish.

The superintendent of the Cumberland road is not the only officer who has been suffered to continue in office, after proofs of his transgressions had reached the President. Was the late secretary of war removed in consequence of his attempt, fraudulently, to give to Governor Houston the contract for Indian rations? I derive my knowledge of this transaction not from the columns of the *Telegraph*. The whole affair was known to me at the time it took place. The editor of the *Telegraph* gives himself too much credit for defeating this attempted fraud. I understood that it was in consequence of the remonstrances of the delegate from Arkansas, that the contract was not completed. There is one fact, however, for which I *am* indebted to the *Telegraph*; and that is, that the President had full knowledge of the business, and that it did not meet with his disapprobation.

‘Is not William B. Lewis still suffered to hold his office? And is any further proof needed to convince any man of his guilt?’

‘Unlimited confidence in the President is a doctrine unknown to the constitution. We are placed here, to check the Executive. But now, it is thought the only mark of genuine patriotism to profess the most unbounded devotion to the will of the President; and the conduct of every officer, favored by the President, must be exempt from all inquiry or censure. “It does not become us,” said a Roman knight in the Senate, boasting of his friendship for Serjanus, and addressing himself to Tiberius — “It does not

become us to inquire into the person you are pleased to prefer above others, or into reason. To you Heaven has given a consummate judgment. To us there remains the glory of a cheerful obedience.” Language fit for the ears of a tyrant, master of the lives and property of his subjects; but most unfit for the ears of the chief magistrate of a free people, holding his power by their will, and responsible to them for its abuse.’

These remarks, which caused great excitement in the House, were inserted in the *National Intelligencer*, and Mr Houston, who was then at Washington, addressed a letter to Mr Stanberry, inquiring whether his name was used by him in debate, and if so, whether his remarks had been correctly quoted in the newspaper. Mr Stanberry replied, that he could not recognise the right of Mr Houston to request an answer to his inquiry. Offended at this reply, Mr Houston determined to take redress into his own hands; and in the evening of the 13th of April he assaulted Mr Stanberry with a bludgeon, knocked him down and beat him so severely, that he was not able to resume his seat for several days. The next day, Mr Stanberry addressed a letter to the Speaker, informing the House of this assault upon him for the part taken by him in debate. The letter having been read Mr Vance moved that the Speaker issue his warrant for the apprehension of Samuel Houston, and directing the sergeant at arms to keep him subject to the order of the House. This motion was opposed

Messrs. Polk, Speight, Patten and Beardsley on the ground that Congress had no authority to act in this summary manner. The House, however, thought otherwise, and in order to put an end to a debate which was regarded as derogatory to its character, the previous question was ordered, yeas 104, nays 65, and the resolution passed, yeas 145, nays 25. At the next meeting of the House, April 16, Mr Houston was brought before it in custody of the sergeant, and, being arraigned, requested time to prepare his defence. On the 18th he again appeared, and being interrogated by the Speaker, he replied, that he did indeed assault Mr Stanberry, but denied that he intended to commit any contempt towards the House. That upon reading in the *National Intelligencer* remarks purporting to have been made by Mr Stanberry on the floor of the House, he felt indignant, and addressed a letter to him inquiring whether the remarks were correctly reported. To this inquiry Mr S. refused to give any answer, in a manner calculated still further to injure him. That under the influence of feelings thus excited, he did, on accidentally meeting with Mr Stanberry, assault and beat him.

The House then went into an examination of the circumstances attending the assault, and after taking the testimony, Mr Houston on the 7th of May was heard in his own defence.

Mr Harper then made a motion, that the accused be discharged from the custody of the sergeants, and the resolution having

been read, Mr Huntington moved as an amendment, that Samuel Houston has been guilty of a contempt and violation of the privileges of the house.

A discussion now ensued as to the right of the House to inflict any punishment, the administration party contending, with but few exceptions, that it was either inexpedient or unconstitutional for the House to punish any act as a contempt, unless committed in its presence and during the sitting. Upon putting the question, however, Mr Huntington's amendment was carried, yeas 106, Nays 88. Mr Clay, of Alabama, then moved that it was inexpedient to proceed further in the matter, and that Samuel Houston be discharged from custody; and Mr Huntington moved as an amendment, that Samuel Houston be brought to the bar of the House on the 14th of May, and publicly reprimanded for the contempt, and also, that he be excluded from the privileges belonging to him as a former member of the House. This amendment was declared by the Speaker to be out of order, but upon appeal the decision of the Speaker was overruled, yeas 89, nays 106. The first part of Mr Huntington's amendment was then adopted, yeas 105, nays 89, and that part, excluding Gov. Houston from the privileges of the House, was rejected, ayes 90, nays 101. The resolution thus amended was then passed, yeas 96, nays 84, and on the day designated, he was brought to the bar of the House and publicly reprimanded by the Speaker for a breach of the privileges of the House.



The disposition evinced by the partizans of the administration, to countenance an interference with the deliberations of Congress, was not without its effect. One of the witnesses, examined during the trial of governor Houston, feeling aggrieved at a question asked by G. Cooke, a member from Ohio, demanded an explanation from him. On the 14th of May, Mr Cook asked the attention of the House to the letter demanding satisfaction. This letter was accompanied by a written statement by Mr C., of circumstances occurring the day of examination, and of a threat, said to have been made by Dr Davis, as he went out of the Hall. Mr Crane, of Ohio, moved to refer this letter, and the statement accompanying it, to a select committee, with power to send for persons and papers, and to report the facts in the case; which was so far amended, as to require them to report their opinion, whether the transmission of this letter, demanding satisfaction for words spoken on the floor, constituted a breach of privilege of the members of the House. Mr Stanberry, in the course of debate hereupon, made a statement that assaults on members of the House, for words spoken in debate were encouraged by the language used by the President of the United States, and said he could prove the assertion by unquestionable evidence. Mr Polk, having declared the statement to be unfounded, Mr Stanberry moved to amend the resolution so as to institute an inquiry into this matter. After a stormy debate,

the previous question was called for and carried, precluding the amendment proposed by Mr Stanberry. The question was then taken by yeas and nays on Mr Crane's motion for a committee, and decided in the negative by yeas and nays, yeas 85, nays 87.

Upon the adjournment of the House on that day a striking proof was afforded of the impropriety of the course of the dominant party, in not enforcing the powers vested in Congress for the purpose of preserving its members from insult and violence. During the discussion upon the propriety of punishing Mr Houston, a person named Morgan A. Heard, who called himself a friend of the prisoner, had threatened violence against Mr Arnold, a member from Tennessee, on account of the indignant manner in which he spoke of the attempt to overawe members in the discharge of their duties. Emboldened by the remarks of the government press, and the obstacles presented to the punishment of Mr Houston, this person, who was occasionally under the influence of insanity produced by intemperance, thought he could also attack with impunity a member of the opposition; and upon the adjournment of the House on the 14th of May, he assaulted Mr Arnold with a bludgeon. Being promptly repelled by Mr Arnold, he drew a pistol and discharged it at him — fortunately without effect, although the ball passed through his sleeve. Mr Arnold then knocked the ruffian down, and his arm was arrested as he



was on the point of inflicting summary justice upon his assailant. This assassin-like assault gave a shock to public sentiment, which it would have been hazardous not to have noticed. The civil authorities were called upon to act, and put an end to a state of affairs alike disgraceful to the government and to the capital of the United States.

The grand jury, which was then in session, found bills against Samuel Houston and Morgan A. Heard for assaults with intent to kill. The former was convicted of an assault, and fined \$500, and the latter was never brought to trial, being deemed an object better fitted for a mad house, than for the censure of a court of justice.

## CHAPTER VIII.

*Treasury Report for 1831. — Appropriations — for Pensions — for Support of Government — Expenditures in Executive Departments — For surveying Public Lands — Debate on diplomatic Expenses — Debate on Turkish Treaty — Debate in Senate on Expenses of Departments — On diplomatic Expenses — On outfit for Minister to France — Debate in House on do. — Appropriations for Naval Service — For Fortifications — For Army — For Indian Departments — Debate on Expenditures — Debate on Indian Annuities — Appropriations for Internal Improvement — Debate on Cumberland Road — On Amendments to Bill — On improvement of Navigation of Western Rivers. — Debate in Senate on Bill — Appropriations for Harbors — Debate on Bill — retained by President.*

THE annual report of the Secretary of the Treasury on the state of the finances, was transmitted to Congress on the 7th day of December, 1831.

The balance in the Treasury on the 1st of January, amounted to \$3,014,569,75.

The actual receipts into the Treasury during the first three quarters of the year 1831, were estimated as follows, viz.

Customs,	\$17,354,291,58
Lands,	2, 479,658,90
Bank dividends,	490,000
Indemnity from Denmark,	217,739,95
Miscellaneous receipts,	111,987,26
	<hr/> 20,653,677,69
The receipts for the fourth quarter were estimated at	\$7,346,735,18
Total receipts,	<hr/> 28,000,412,87

which exceeded the estimated receipts for 1831, as stated in

the report of the last session, dated December 16, 1830, by the sum of \$4,660,412,87.

The expenditures during the first three quarters of 1831, were estimated as follows, viz.

Civil, Diplomatic, and Miscellaneous,	\$2,507,614,44
Military services, including Fortifications, Indian affairs, and Internal improvements	5,649,017,22
Naval service,	3,019,667,85
Public debt,	9,983,479,46
	<hr/> \$21,159,778,97

The expenditures for the fourth quarter, including \$6,205,810,21 on account of the public debt, were estimated at \$9,807,422,28, making the total expenditures of the year \$30,987,201,25, and leaving in the Treasury on 1st of January, 1832, an estimated balance of \$3,047,751,37, which, however, included the in-

demnity from Denmark, of \$439,475, and \$1,400,000 of unavailable funds.

The expenditures for the year 1831, had been estimated in the report, made at the preceding session, at \$23,228,066, and the result showed an excess over the estimate amounting to \$7,739,135,25.

The receipts for 1832 were estimated at \$30,100,000.

Customs,	\$26,500,000
Public lands,	3,000,000
Bank dividends,	490,000
Incidental receipts,	110,000

The expenditures for 1832, for all other objects than the public debt, were estimated at \$13,365,202,16, viz.

Civil, Diplomatic, and	
Miscellaneous,	\$2,809,484,26
Military service, &c.	6,648,099,19
Naval service,	3,907,618,71

which it was estimated would leave a balance of \$16,734,797,84, together with the available balance in the Treasury, amounting to \$1,208,276,24.

The total amount of the public debt on the first of January, 1831, was \$39,123,192. The payments for principal and interest during the year, were estimated at \$16,189,289,67, leaving on 2d of January, 1832, a public debt, which consisted of

Three per cents,	\$13,296,626,21
Five per cents, redeemable in 1832,	1,796,228,78
Five per cents, redeemable in 1835,	4,735,296,30
Four and a half per cents, redeemable in 1833-34,	4,454,727,95
Unfunded debt,	39,355,94
Total,	<u>\$24,322,235,18</u>

The interest on this sum for the year 1832, was estimated at

\$500,000, and the amount which might be appropriated towards the public debt, was estimated at \$14,519,548,21.

This being applied to that object would leave the public debt at the end of 1832, \$10,302,686,97, towards the discharge of which the Secretary of the Treasury recommended the application of the United States Bank stock belonging to the government; which being sold, would bring according to his estimate \$8,000,000.

This operation would enable the government to pay the whole public debt, before March 4th, 1833.

In the report, while suggesting the expediency of selling the bank stock by the government, the Secretary of the Treasury warmly recommended the renewal of the charter of the United States Bank, as indispensable to the fiscal operations of the government, and as entirely in conformity with the provisions of the constitution.

It was not a little extraordinary to find the head of the government denouncing the bank as unconstitutional, and as having failed in accomplishing the objects for which it was established, and the head of the treasury department earnestly recommending the continuance of that institution, on grounds directly opposite.

It showed how little of harmonious action existed between the chief magistrate and his cabinet ministers, and revealed the interference of a secret influence unknown to the Constitution, and

whose existence was suspected only from its mischievous effects upon the public interest.

An increase of the salaries of the diplomatic corps was recommended, as essential to the dignity and interest of the country.

The public lands were alluded to as an increasing source of revenue, and the Secretary suggested the propriety of disposing of them to the States within whose limits they are situated, at a fair price.

The bills providing for the maintenance of the different departments of the government, having been reported by the committee of ways and means, that making provision for the revolutionary, and other pensioners of the United States, was taken up in the House on the 16th of February, and having received the assent of both Houses became a law.

By this act \$987,504, were appropriated for the revolutionary, and \$165,039, for the invalid pensioners, in addition to \$140,532, formerly appropriated and not expended; \$3000 were appropriated for widows and orphans of certain persons who had fallen in the public service, and \$3000 were subsequently granted to the widows of persons who fell in the naval service. An act was also passed, allowing a pension to all who served two years during the revolutionary war, either in the state troops, militia, or continental line, to the full amount of their pay, of the rank in which they served, and a proportionable amount for any less

time, provided the term of service exceeded six months. The pension to commence from March 4th, 1831.

The bill making appropriations for the support of the government for 1832, was brought forward in the committee of the whole House, on the 23d of February.

Upon reaching an item, making an appropriation to the land office, for extra aid during 1832, in issuing the Virginia land scrip, Mr McDuffie stated, that the commissioner of the general land office, was desirous of an appropriation of \$20,000 for these objects; but as the committee had not had an opportunity to investigate the subject, he would, for the present, move to fill the blank with \$4000, being the same sum which had been appropriated for these objects last year.

Mr Wickliffe inquired, whether the committee had been informed in what manner the money granted last year had been expended? This was not an ordinary regular appropriation, he said, but one which had been asked for, in order to bring up arrears, and the House had been told, that the sum would be sufficient for that end. But the individual now at the head of the Bureau, informed the House, that the business behind hand in his office, would require fiftyfive clerks for twelve months, and an enlargement of the treasury building. All this extra labor it seemed, was necessary in filling up patents for land.

Mr Wickliffe was willing to admit, that there might have been a great increase in the patents is-



sued within the last twelve or eighteen months. He recollected, however, that the valuable man who had formerly held the same situation, (Mr Graham,) had told him when, as chairman of the retrenchment committee, he had inquired of him whether there were any clerks in his office which might be dispensed with; that there were none, because he had dismissed some shortly before: yet, with this force, Mr Graham had been able to get along. Now, however, it seemed, that there must be a great accumulation of arrears, and all this was charged upon the arrangement, by which the issuing of the Virginia land scrip had been thrown into his office.

Mr Irvin, of Ohio, thought that as to the expenditures in the land office, individual members ought not to take upon themselves to decide what should be its amount. The business in that office was known to be daily increasing, and each entry required the same labor. If the gentleman from Kentucky had attended to the sums received during the last two years for land, he would find, that it amounted to nearly three millions of dollars, while a few years since it amounted to but one million. The entries, therefore, required three times the amount of labor that was formerly necessary; and it was still further increased by the great number of private land claims, which had recently been confirmed in Florida and Mississippi. When officers of high and honorable standing had been selected to preside over the public offices,

it ought certainly to be taken for granted, that they would not come to that House and ask for an appropriation, that their department did not need.

Mr Wickliffe replied to Mr Irvin. That gentleman seemed to think it necessary, that the House should grant a certain sum to the commissioner of the land office, because that gentleman told them, that his office was in need of it. Now, with all his willingness to give due weight to the opinions and recommendations of every Executive, he must take leave to protest against the gentleman's doctrine, that the House was bound to take whatever estimates were sent them, and appropriate accordingly. He held a very different creed; and believed, that Congress was blameable in not having looked more narrowly into the increasing requisitions, which from year to year were made upon them. The true committee of retrenchment was the committee of ways and means. He presumed, that the \$20,000 now asked for, was founded on an estimate of seventeen cents for each patent issued. He was well apprised of the fact, that more than sixty words had to be written in a patent for military bounty land; but he knew also, that that branch of business was rapidly decreasing. Since the year 1830, the government had given scrip, instead of issuing patents for that description of land. Mr Wickliffe had been struck with the increase of arrearages since the time of Mr Graham. They had increased at a rate greatly beyond

the increase of the business. Mr Graham had been able to keep up with the course of business till the time of his death; and yet now, in two years, the House was told that the arrears required fiftyfive clerks, and an enlargement of the treasury building. Last year the commissioner had asked for ten clerks, now he asked for fifteen, and next year he supposed he would want twenty.

Mr Irvin, after a few remarks, moved to fill the blank with \$20,000; and the question being put, it was negatived, and the question recurring on filling it with \$4000 — it was carried and the blank filled with that sum.

When the item allowing \$160,000 came up for surveying the public lands,

Mr Vinton, of Ohio, took the ground he had done on former years, in opposing so large an appropriation for this object. He thought one half the amount was quite sufficient. He insisted warmly on the injurious consequences of going on to survey large amounts of new lands, while so small a proportion of that already in the market was annually sold. This made land a drug; depreciated the value of real estate in States more thickly settled; and led to the selection of the best land and the finest millseats by speculators and squatters.

The same ground, in substance, was taken by Mr Root, of New York, who also adverted to another effect growing out of this system, — the covering the new country with a sparse population,

drawn from those territories more densely peopled, by which means, the progress of education, of the mechanic arts, and especially of manufactures, was retarded. From this arose the necessity of a hot-bed protection to our manufactures. Congress were applying tonics and depletions to the same patient at the same time.

The appropriation was advocated by Mr Adams, Mr Wickliffe, Mr Clay, Mr Duncan and Mr White, of Florida, who insisted upon the propriety and importance of these surveys to the new States and territories. The policy was well settled, and had been attended with the happiest effect. The survey must be made at some time, and once done, it never had to be repeated. The omitting to survey the new lands would not prevent their being settled. The same number of persons could go there, and the only difference would be, that the government would receive no money, and would be pestered with innumerable applications for pre-emption rights. Besides, the surveying of land did not necessarily bring it into market; that was a matter left at the discretion of the President of the United States. A multitude of private land claims had been confirmed, especially in Florida, and justice required, that these should be surveyed without delay.

Mr Wilde, though not opposed to the survey of such lands as were valuable, was persuaded that much surveying had been done in the south, by which no one was, or would for centuries to come, be benefited, but those

who had the job of surveying them.

Mr Polk stated, that eighty thousand dollars of the sum proposed was for surveying the lands of the Choctaws. By the treaty of cession, numerous reservations had been promised to certain individuals of that tribe; but these reservations were to be laid out immediately adjacent to ranges and townships, so that their location could not be ascertained until the Choctaw country was surveyed: and so sacredly did the President consider himself bound by that treaty, that should no more than 80,000 dollars be appropriated (as had been proposed by Mr Vinton,) he would apply the whole of it to the Choctaw survey. Of course all other surveys must stop.

The question was then put upon filling the blank with 160,000 dollars, and carried — yeas 73, nays 48.

A debate also arose upon the following item: 'For salary of the dragoman to the legation of the United States to Turkey, \$2,500.'

Mr Archer moved to strike out 2,500, and to insert 'and for contingencies \$37,500.' He said he was instructed to make this motion, by the unanimous vote of the committee on foreign affairs, which committee contained gentlemen of opposite political sentiments.

Mr Adams and Mr McDuffie both strongly objected to voting an appropriation on that ground. If there was any state secret in the matter, the House might receive it with closed doors.

Mr Archer declining to make any farther explanation, the amendment was negatived.

The bill was then reported to the House and laid upon the table, until the 15th of March, when it was again taken up in the committee of the whole, and Mr Irvin moved as an amendment, an appropriation of \$25,000 for extra clerks in the land office, to be employed in the issuing of land scrip, instead of \$4,000 as reported in the bill. He pressed his motion with great earnestness.

On motion of Mr Shepperd, of North Carolina, the appropriation was increased to \$6,600.

The item for the salary of a minister to Colombia having been read, Mr Davis, of South Carolina, moved that it be stricken out. In supporting this motion, he observed, that a call on the department of state for information why a minister of higher grade than a chargé was needed at Bogota, had elicited no response from that department. The House, in the mean time, were in possession of the fact, that the republic of Colombia had been dissolved, and the country divided into three governments. But did the republic still exist, our connection with it, in a commercial point of view, was of too small importance to justify the expense of keeping up that mission. Our whole import from Colombia in 1827, was but \$333,000, and last year it had decreased to \$180,000. The salary of the minister alone amounted to sixteen per cent, upon the whole of our commerce with the republic.



Mr Archer considered the gentleman from South Carolina had misapprehended the facts of the case. He thought the Executive should not be called upon always to yield to the intervention of the House, in that which did not appropriately belong to its jurisdiction.

Admitting the republic to have been subdivided into three governments, was not their importance such as well to deserve a full mission from this country? Had we not sent such missions to South American States of less importance? Mr Archer had understood from General Santander, a gentleman who had filled the very highest office in Colombia, that it was supposed there that the foreign relations of the country, as they had existed before the change, were still to be maintained at Bogota.

The question being finally taken on the motion to strike out the appropriation for the mission to Colombia, it was negatived by a large majority.

Mr Stanberry inquired of the chairman of the committee of ways and means, whether the appropriation last year, made for a mission to Russia, had been expended. If it had not, and he was bound to presume it had not, inasmuch as the friends of the late minister to that court, (John Randolph) had expressly and repeatedly assured the House that he would not accept the money, then there could be no necessity for a new appropriation.

Mr McDuffie replied, that the minister had received every cent of the appropriation.

Mr Carson observed, that if the gentleman alluded to him, he was mistaken; he had never said, that the minister would not receive the money. He should have considered him very foolish if he had refused it.

Mr Stanberry replied, that some of the gentleman's friends had so declared, and among others the chairman of the committee on foreign relations, (Mr Archer.)

Mr Archer said, that he had not been among the number, but, had he been called upon, he should, without hesitation, have expressed a confident expectation that the minister would not receive it.

Mr Wilde moved the addition of 18,000 dollars, for a mission to France; which was agreed to, yeas 101.

Mr Wilde further moved, for the salary of a charge to Naples, 4,500 dollars, and for his outfit, 4,500 dollars; which was carried.

Mr Archer moved an item for a dragoman to the mission at Constantinople, and contingent expenses, 37,500 dollars. The motion was negatived.

The bill was then reported to the House, and on the 16th of March, when it was taken up, the amendments made in the committee were in general agreed to, without opposition.

Mr Wilde then moved to strike out the appropriation of \$3,000 for the salary of the commissioner of the general land office, on which motion, a very animated debate arose. The ground of Mr Wilde's motion was un-



derstood to be, the neglect or incompetency of the officer referred to. His cause was pleaded with much warmth, by Mr Irvin, Mr Leavitt, Mr Clay, of Alabama, and Mr Polk, who referred to his previous high standing in Ohio, his known character for industry and application, and the satisfactory manner in which he had discharged the duty of a judge in that State.

It was strenuously denied, that he had neglected the duties of his office here, although bad health might have sometimes detained him from it, and confined him to his bed; and it was insisted that if he had been guilty of corruption or malfeasance in office, or was incompetent to the discharge of his public duties, the proper course to be pursued was, either an impeachment or a committee of inquiry, or a direct application to the Executive for his removal.

Mr Wickliffe referred to some statements, in reference to the neglect of this officer, formerly made by Mr Sevier on the floor of the House, and declared it to be his purpose, on a future occasion, to move for an inquiry into certain parts of the commissioner's official conduct in reference to himself.

Mr Wilde, after vindicating the motion he had made, as intended to rouse the House, the Executive, and the nation, to a subject which he thought needed looking into, and, fortifying himself by precedents from the British parliament, said that, as the gentleman from Kentucky (Mr Wick-

liffe) had pledged himself to an inquiry, he would withdraw his motion.

Mr Stanberry, of Ohio, moved to strike out the appropriation for the salary of the second auditor.

This motion gave rise to another debate of equal animation with the last. The motion was advocated by the mover, on the ground of the serious charges which had been preferred in that House against the officer in question, in relation to a certain tract of the public lands. Until the individual was cleared of these charges, it was improper that he should hold an important office under the government.

The motion was opposed by Messrs Arnold, Everett, Wickliffe, Mercer, Barringer, Beardsley, McDuffie, and Letcher, on the ground that, as the charges were now under a course of investigation by one of the committees of the House, it would be unjust to anticipate the decision by legislating the individual out of office. It was also highly inexpedient to set a precedent, which might be seized upon by the spirit of party to embarrass the service of the country, and destroy meritorious individuals. The individual was, at all events, entitled to his salary up to the present time, but the amendment would cut off the whole.

The motion was advocated by Mr Branch, who insisted that the office of second auditor might advantageously be dispensed with. Its necessity had grown out of the accounts occasioned by the

last war ; but as long ago as Mr Monroe's time, it had been officially recommended to abolish it. The same thing had been reported by the committee on retrenchment.

Mr Stanberry eventually consented to withdraw his motion.

Mr Verplanck proposed that the item of 160,000 dollars for the survey of the public lands, should be subdivided : 80,000 dollars being appropriated specifically to the survey of the Choctaw lands, under the late treaty ; which was agreed to.

On motion of Mr Davis, an item of 4,000 dollars was inserted for the purchase of the bust of Thomas Jefferson, by Caracci, yeas 81, nays 63.

Mr Archer now renewed the motion he had made in committee, to appropriate 37,500 dollars for contingencies, and the salary of a dragoman in the mission to Turkey, on which motion a debate of much interest arose.

In explaining and supporting this amendment, Mr Archer observed, that the House would recollect that he had, on a former occasion, submitted a similar motion, when the bill was under consideration in committee of the whole. He had at that time stated, that the committee of foreign affairs had instructed him to submit the amendment, without going into any further explanation than to state, that its adoption was unanimously recommended by all the members of that committee. He had accordingly done so. It happened, as he had anticipated, that several members

of the House had declared themselves unable to yield their assent to the amendment, until they should have heard the grounds on which it was deemed advisable. Proper and reasonable as these objections were, he had nevertheless, in compliance with the instructions under which he acted, declined giving the explanation, in consequence of which the amendment had been negatived. It was due to the committee of foreign affairs to assign the reason for the instructions they had given, as well as the reason why those instructions were now departed from. The papers, on which the amendment was grounded, had been communicated in confidence to the committee by the department of State ; and they could not permit the desired explanation to be given, till they received authority to that effect from the department, from whom they had received the papers under the seal of confidence. That seal had now been removed, and he was permitted fully to explain the object of the amendment.

The trade which would be opened to the United States by the ratification of our treaty with Turkey, had constituted, in ancient times, one of the richest portions of the world. The value of this commerce made it an object sought for with avidity by all the European powers. They had all made strenuous efforts to obtain a share of it. But those efforts had all been unsuccessful. The Black Sea continued to be excluded from all but the Rus-

sians. It was a praise due to our own government, that its attention had been early directed to that subject, with a view to extend the commercial relations of this country. It had been represented in that House, and very generally believed throughout the country, that the credit of this attempt was due exclusively to the existing administration. But Mr Archer said, that he owed it to candor to declare, (and it was with great pleasure that he did so) that the preceding administration had shown the same assiduity to possess the country of this commerce, and had been as zealous and as judicious in its efforts for that end, as the administration now in power. It had happened, however, that complete success had been reserved to the era marked by the accession of the present chief magistrate. A treaty had been made, but had not been ratified. It was perfectly well known to all persons acquainted with the manners and habits, which prevailed in Oriental countries, that there was no such thing as making a treaty with the Ottoman Porte, except on a condition, the necessity of which was as well recognised and as little disputed as the necessity of signing or sealing the treaty itself; namely, the making of presents to all the chief officers of the Turkish government. The United States' commissioners, by whom the late treaty had been negotiated, being fully aware of this fact — sent home to the Executive, as it was their duty to do, an estimate of the presents

which would be necessary to the consummation of the treaty. In this, Mr Rhind and Mr Offley had done no more than was done by others, and had graduated their estimate according to the presents made by other powers. The amount of their estimate was 75,000 dollars.

It had been usual with all foreign powers, who maintained diplomatic relations with the Ottoman Porte, to depute to that Porte ministers of high grade — nor would any other be well received by a government so eminently jealous of its own dignity, as to take offence at the sending of any one of so low a rank as a *chargé des affaires*. Our own government, aware of this state of things, had sent to the Senate a nomination for a minister plenipotentiary. The members of the committee all knew that the Senate, in the exercise of an unquestioned power, (though he greatly doubted if it had in this instance been judiciously exercised,) thought fit to cut down the appointment to that of a *chargé*. It did not belong to him, to question the propriety of this decision before a co-ordinate branch of the government. As the mission had been cut down, it had been conceived necessary, that all the expenses attending it should be reduced also. The Executive government had some sort of a scale, by which they might proportion the expenses proper for a full mission, for this had been supplied by the estimate of the commissioners. But when the mission had been cut down to



the appointment of a *Chargé* — in what proportion ought the expenditure to be reduced? There was none that could intelligently answer the question; and, in the absence of light, an arbitrary rule was adopted. They chose to assume that as the salary of a *chargé* amounted to just half the salary of a full minister, the presents he was to carry must be reduced in the same proportion; and as the estimate had been 75,000 dollars, it was cut down as a matter of course to 37,500. But although we might have been disposed to reduce the amount of these presents, the Turk was not; he had always been accustomed to receive presents when he signed a treaty. Those presents were regularly calculated upon, before the treaty was made, and they constituted with him as much a part of the profit expected to be realized by the treaty, as commercial or other national advantages did with ourselves. The Turk did not choose to cut down the amount of presents he was to receive, and when our half minister presented himself, he found that various difficulties were started — the real difficulty being, that one item of the advantages expected by the Turk, had been withdrawn. So great were these difficulties that Commodore Porter considered it doubtful whether he would be received at all in his official capacity, and after his reception had been effected, it was not without the most strenuous efforts, that he finally obtained the assent of the Turkish govern-

ment to the treaty. It was given at length, but on the express condition, that presents should be made. They told him, as they had told every body else, that presents were an indispensable pre-requisite. Commodore Porter, with that attention to the duties of his station which that officer had always displayed, but which in this case merited no particular commendation, because no other course was left to him, told the Turkish Government, that he had but 25,000 dollars to distribute in presents, and they must accommodate themselves to it among their claims accordingly. On this communication they sent him a list of presents, exceeding the sum at his disposal by about 6,000 dollars. He had not the money; but considering the consummation of this treaty to be an object so important to his country — remembering that it had been the earnest wish of many successive administrations to obtain it, and believing it fraught with so many advantages to the commerce and enterprise of his fellow citizens, and perceiving withal that consummation now, as it were, within his reach, justly concluded, that it ought not to be put at hazard for the petty sum of 6,000 dollars; he therefore borrowed that amount on his own responsibility, and thus was enabled to complete the presents required of him, in consequence of which the treaty was completed. He found it necessary, however, not indeed positively, to promise that the amount of the presents should be increased — for that he



was not warranted to do, but to use his utmost exertion to that end. In compliance with this promise, he afterwards wrote home to his government, fully stating the considerations which had actuated him, and suggesting the amount and the form of the additional presents, which he judged it would be expedient to make in furtherance of the great objects of the treaty. That letter had been submitted by the department of state to the committee on foreign affairs, who thought with Commodore Porter, not only that the six thousand dollars which he had advanced ought to be refunded, but that 20,000 dollars in addition should be appropriated to so important an object in national policy. This accounted for 26,000 dollars out of the 37,500 that was asked for. Of the remaining sum, 2,500 dollars was for the salary of the dragoman, and the balance of 9,000 dollars was to be appropriated to the ordinary contingencies of the mission. A letter had been received from the mission within a few days past, informing the department, that Commodore Porter was not only entirely destitute of all public funds, but even of money for his personal subsistence. All had been exhausted in meeting the exigencies of the public service.

Mr Archer expressed his entire conviction of the reasonableness and propriety of the appropriation for which he had moved, and its evident tendency to promote the interests of the country.

Our trade with Turkey during the last year had been equal in amount to our whole trade with Russia, although at that time our vessels had never reached as far as Constantinople. He prayed gentlemen to consider, that during the last year, two thousand vessels had entered the port of Constantinople. Was not the amount now asked for, a moderate price indeed for participation in so signal an advantage as was presented by such a commerce? But when gentlemen looked beyond the Dardanelles, and anticipated what the commerce must be with that vast and rich region which surrounded the Black Sea, they would perceive that our trade with Constantinople formed but a small portion of the advantages which would probably accrue to the American merchant. In the single port of Odessa alone, 870 vessels had entered and cleared within the last year; yet this was but one of the many commercial ports which presented themselves on those extensive coasts.

Mr McDuffie said, he had no objection to the amount proposed to be appropriated to meet the expenses of the presents, which he understood were stipulated to be given at the time the treaty was made. He presumed such presents were given as was usual in similar cases, but he wanted some explanation, as to the remainder of the sum for which the appropriation was required. In addition to the sum proposed for presents, and the \$6000 to reimburse Commodore Porter,

there was yet \$9000 to be accounted for — that was a large sum, and if intended for the contingent expenses of this mission, he was not disposed to grant it without some further explanation. The experience he had in those matters on the committee of ways and means, had satisfied him, that appropriations in the form of contingencies should never be made, except in cases of obvious and unavoidable necessity.

If this appropriation was intended to cover the expense of this mission, there are already two contingent funds applicable to this purpose — the one 'for contingent expenses of all the missions abroad,' and the other for 'the contingent expenses of foreign intercourse.' He was rather surprised at the extravagant account, that had been given of the great benefits that would accrue to this country from the trade of the Black Sea, and he believed that those advantages existed more in expectation than in reality. However disposed he was to maintain the existing commercial relations between this country and Turkey, he had never understood the value of that commerce to be so great as it was now represented; and he should like to be informed what were the articles in which this valuable commerce consisted, or was expected to consist? He could find no note of this commerce in our commercial documents, and could not, therefore, understand the grounds upon which such mighty advantages were anticipated.

He was willing to vote for the

sum required for the stipulated presents, and to reimburse what Commodore Porter had expended, but he wished to have a separate vote taken on the sum proposed for the contingencies.

Mr Cambreleng said, that it was extremely difficult to judge with accuracy of the value of a trade, which had just commenced and could scarcely be said to exist. He concurred with the gentleman from South Carolina in the belief, that the importance of the trade to the Black Sea, had been in some degree overrated, but still it was too valuable to justify the gentleman in refusing some 20 or 30,000 dollars to secure it. He had thought this trade important last year, and had, therefore, been in favor of sending out a full minister, well knowing the great contempt, which was entertained by the Turks for persons in subaltern situations. The Greeks had already 500 ships in that trade, and all past experience went to show that Americans were capable of competing with any nation on earth in seizing the advantages of a profitable trade. If Americans were permitted to go into the Black Sea, they would soon become there what they were in all other parts of the world, the carriers to all other nations. Five hundred ships had entered the port of Odessa the last season, and the very articles which we now draw from Russia, all came over land to Petersburg, and might be more readily obtained in the southern parts of the empire.

Mr E. Everett observed, that he had been in favor of this appropriation, when the subject was before the committee of foreign affairs; and he would therefore, say a word or two in support of the amendment. He should not enlarge upon the subject of the commerce of the Black Sea. The Russia trade was a branch of commerce in which some of his constituents were largely interested. He presumed, that the Russian trade of the Black Sea was substantially the same as that of the Baltic and Archangel. We should carry there the same articles of colonial produce, and bring back, he presumed, the great staples of Russian commerce: iron, hemp, tallow, &c. There was, besides, a great carrying trade between the Black Sea and various ports of the Archipelago, Adriatic, and Mediterranean, in which our vessels had already engaged, and would, no doubt, much more extensively. If they did not, it would be the first open trade of which they failed to secure their share. Like the gentleman from New York, Mr Everett had been in favor of a full mission, differing in that respect from many of his friends in Congress. He had some personal acquaintance with the character of the Turks and their government; and he knew that in dealing with them, the external show went much further, than with civilized powers. He did not wish the Americans to get the name at Constantino-ple, which he had heard they sometimes received at Canton — that of second-chop Englishmen.

He would not run a race of prodigality with any Foreign Power; but he would, in every proper way, impress the governments of all countries with whom we have dealings, with the assurance, that we knew and were disposed to respect their usages, as far as our own honor permitted. There were occasions, when, in semi-civilized and barbarous countries, the property, the liberty, and even the lives of our citizens, depended on its being well known, that they were under the protection of a powerful government. There is no way more effectual, and he would add economical, of conveying to those countries a proper impression of the power of this, than by keeping up our diplomatic establishments, in a respectable style.

Mr Whittlesey, of Ohio, professed his willingness to redeem any pledge, that had been advanced by Commodore Porter in good faith, on behalf of his country. He should, therefore, vote for the sum intended to reimburse him what he had advanced. He had been disposed also to vote for the 9,000 dollars for the contingent expenses of this mission, but from the explanation which had been just given to the House by the honorable member from South Carolina, (Mr McDuffie,) that these contingents were otherwise provided for, he could not see any necessity for including this amount in the appropriation now before them. With respect to the 20,000 dollars intended to cover the expense of presents to the officers at the Ottoman Porte, he could not un-



derstand from the chairman of the committee for foreign affairs, that there was any actual pledge given by Commodore Porter, that presents should be made to that amount, or to any part of that amount. On the contrary, from what they were told, it appeared that a list of articles, as usually given to these gentry, on ratifications of treaties, was made out by the Turkish officers themselves, with which, when given, they were perfectly satisfied. He contended against the system of making presents altogether. His principle, was, rather to give millions for defence, than one cent for tribute; and, however important the commerce of this country with the countries bordering on the Black Sea, he would incur all the expense of sending thither vessels of war to enforce our rights, sooner than pay a cent by way of tribute. With these views, and in order to discharge the obligation of 6,000 dollars, to Commodore Porter, and to defray the expense of a dragoman, he would move, as an amendment to the amendment, 'that the 37,500 dollars be stricken out, and 8,500 dollars inserted in lieu thereof.'

Mr Adams now rose, and observed, that the appropriation asked for by the chairman of the committee on foreign relations, had been very improperly considered as tribute. It was not tribute; it was not so intended, nor so received. The sentiment of 'millions for defence, but not a cent for tribute,' had been much and very properly admired throughout this country; and if

applied to our intercourse with European powers, it was worthy of all the admiration it had received. The time had been, however, when a maxim directly the reverse of this had been pursued by the government of this country, and that even under the administration of Washington. At that time, it might almost have been said that we gave millions for tribute, and not a cent for defence. We paid to the Regency of Algiers large sums as tribute, down to the close of the last war with Great Britain, at which time we began to vote 'a cent' for defence. From that period, we had ceased to pay it. He need not say that he referred to the achievement of that gallant hero, Decatur—an achievement, which had done more for the real glory and benefit of this nation, than one of which so much was said. It had liberated us from tribute. But the making of presents was a very different thing. This had from time immemorial been customary in the intercourse with all the Asiatic powers. It was by means of presents, that one of the most important treaties had been effected which ever took place among men. He spoke of the treaty effected for the Czar Peter by the immortal Catharine, at a time when his army was nearly gone, and nothing was left him but his wife. Catharine resolved, in this emergency, to attempt a negotiation. She attempted it, and succeeded. She collected all the diamonds and other valuables she had about her person, and in one night effected the liberation of her husband.



And it was to be ascribed to this very policy of making presents, that posterity had ever heard the name of Peter the Czar. But for this, that great man would at that time have been destroyed. The usage had been universal among the powers of the East, from time immemorial. And as to the usage of our own government on that subject, the gentleman at the head of the committee on foreign affairs had referred the House to the practice of Mr Jefferson. But he might have gone much farther back; for we have been in the habit of giving presents ever since we have been a nation. Our first treaty with France had been effected through the influence of presents — by presents given by our ministers at Versailles; and the old confederation had allowed our ministers not only to give presents, but to receive them in return. Mr A. said, he was not indeed sure but presents of some kind had been received by our commissioners in the present case. What had become of them, he did not know. Not an Emperor of Morocco died, but this country made presents to the successor; not a Bey of Tunis, nor a Dey of Algiers, fell by disease, or died by the hand of some loving brother, but presents were still made to the new occupant of the throne. Congress, indeed, did not see the appropriation, nor vote the money for that specific object; the Executive drew the necessary supply from a fund set apart for the contingencies of foreign intercourse. So that, if the worthy gentleman from Ohio (Mr Whittlesey) insisted up-

on considering presents made to barbarian governments as tribute, he was paying every day not only many 'cents' but many dollars, and many thousands of dollars, for tribute. But the matter was not so considered elsewhere. — Nay, the practice of making presents in conducting negotiations prevailed even in Europe.

In Holland, it was the practice to present a heavy gold chain, having a large medal appended to it to every foreign minister on his leaving the Hague. In England (where they stuck closer to matter of fact,) it was customary to ask a minister, on his departure, whether he chose to receive a snuff-box containing a portrait of the King, or a present of the like value in money. Some gentlemen, who were more sentimental, preferred accepting the box. — Others, who looked closer to the pocket, received a sum of money. So perfectly was this thing understood, that there was a regular graduation of the value of these presents, according to the grade of the minister to whom they were to be made, from an ambassador, down as low, he believed, as to a secretary of legation. It had happened to him, when engaged in negotiating a treaty with that power, that the British minister had put the question to him. Mr A. had replied, that it was not in his power to accept either. The minister replied, that he had himself received many of these presents, but never without experiencing a sense of shame.

A very good principle on that subject had been established by the Directors of the East India

Company. In their intercourse with the nations of the East, the company always made valuable presents, and permitted their agents to receive corresponding presents in return. But the value of the presents thus received, was always charged to the minister, as so much on account towards his salary. This, in the policy of merchants who were princes, and who united glory with interest in all their concerns, might be a very proper arrangement. He had mentioned these facts, for the purpose of showing how universal the usage in question was. Our own government, indeed, formed the only exception, and even that exception was not uniform — for he believed, that there was seldom an Indian treaty made, in which we did not make presents, whether we *received* any or not.

It had been said by the gentleman at the head of the committee on foreign affairs, that the object of this treaty had been pursued by a preceding administration. It had so happened that the negotiations to effect it had been instituted by himself. But the fact had not been disclosed, because, in order to the success of the negotiation, it was necessary that it should be secret. It had been commenced in the midst of the war, which had raged between Turkey, Russia, Great Britain, and France. At that time none of these powers had accredited ministers at Constantinople. If the fact had been otherwise, Mr A. could have indulged far less hopes of success. The negotiation had been commenced, and a treaty was in part

concluded on, before the close of the last administration. As it had been necessary to keep these proceedings secret from the nation, and as he well knew, that it was impossible to do anything at that Court without presents, he had employed the whole of the sum, constituting the fund for the contingencies of foreign intercourse, in providing them on the present occasion; and one reason why the treaty had not been concluded at that time, was, that the sum had not been sufficiently great; and the persons employed had not seen proper, like Commodore Porter, to augment it on their own personal responsibility. The despatches from the confidential agents employed had been received at the Department of State, ten or fifteen days after the present administration came into power. Those despatches, by order of the President, had been submitted to his (Mr A's) perusal, and his opinion had been asked, whether it would be proper to go further in expenditures of the same kind, with a view to bring the negotiation to a close. And in justice to the present administration, it was his duty to say, that his reply to that inquiry had been, that although four times the sum already expended might be requisite, it should be given. The object had been effected by an expenditure far within that amount. It was still his opinion, that it was not only proper that these usual presents should be made; but that the legislature should not be niggardly as to the amount applied to such an object. The sum could never be large;

and if, instead of these \$20,000, double that amount had been called for on the present occasion, he would venture to say, that the nation would receive five times such an amount in its pecuniary interest, and five hundred times the amount in reputation and influence.

Mr Root addressed the House for some time in opposition to the amendment, and argued to show, that the money asked for was to be considered as so much toll for liberty to pass the Dardanelles. He knew, that we were in the habit of paying toll at Elsineur. But that was a toll exacted by ancient usage, and paid by all nations. He much doubted, whether the trade of the Black Sea would be worth the toll that was demanded, especially as it would bring us, as he understood the matter, only the same products we now obtained from St Petersburg.

Mr Archer now said, that, in deference to the opinion of his friend from South Carolina, (Mr McDuffie,) he would modify his amendment by omitting the \$9,000, to which that gentleman objected. Of the residue, \$6,000 was for the debt to Com. Porter, \$20,000 was for presents. It was indeed true that the minister, had not expressly pledged himself to obtain this sum, nor had he felt himself warranted in borrowing it, as he had done the \$6000. It would not have been prudent for him to do so. But he had gained to the nation very signal commercial advantages, under a pledge that he would use his best exertions to obtain additional presents to this amount.

Mr A., therefore, put it to the nice sense of honor in that House, whether this did not virtually amount to a pledge of the nation itself.

The two sums he had named, together with \$2,500, the salary of the dragoman, would make in all \$28,500. Whether the prudence and dignity of this government would dictate the withholding from a meritorious officer, exposed by his situation to peculiar and heavy expense, especially when it was known that out of his own penurious allowance of \$4,500 he would probably be obliged to advance sums requisite in the public service, and for which the committee would be obliged hereafter to apply to the House, it was not for him to say.

Mr McDuffie inquired whether Com. Porter was not now in advance for the Government?

Mr Archer replied in the affirmative, and added that the gallant Commodore had been under the necessity of borrowing money for his own subsistence.

Mr McDuffie then withdrew his objection to the \$9000, and the question being put on Mr Whittlesey's amendment inserting \$8,500, it was rejected. Mr Williams then moved that \$28,500 be inserted, which was also rejected; and the sum of \$37,500 was agreed to by a large majority.

After these points had been thus settled, the general appropriation bill was passed by the House and sent to the Senate for concurrence.

In that body an attempt was made in committee of the whole,



by the friends of the administration, to increase the appropriation for the contingent expenses of the judicial department, from \$190,000, to \$250,000.

This amendment caused an animated debate, in which the pretensions of the administration to a reform in the public expenditure were severely handled.— The amendment was at length adopted, yeas 20, nays 19, and was afterwards rejected in the Senate, yeas 15, nays 24.

Mr Forsyth made an attempt to procure a reconsideration of this vote, but the Senate rejected the amendment by a still stronger vote, yeas 16, nays 26. — An amendment was also proposed by the committee of finance, allowing \$4,500 for the return of the ministers from France and England. This amendment was also strenuously resisted, and the whole merits of the arrangement respecting the colonial trade were reviewed in detail.

With the view of getting rid of this discussion, Mr Smith (the chairman of the committee), at length proposed to withdraw the amendment, but it being the report of a committee, the motion was not in order, and finally the amendment was agreed to without a division. The bill was then amended by appropriating \$50,000 for the survey of the lands ceded by the Creeks, and by making appropriations for the survey of Narragansett Bay, with reference to establishing a naval depot; for a hospital at Charlestown; marine barracks at Philadelphia; to purchase the bridge

at the navy yard at Norfolk; and for settling the land claims in Florida.

Mr Smith then offered an amendment, which, he said, he was instructed to propose by the committee on finance, appropriating \$8,000 to enable the secretaries of the State, Treasury, War, and Navy Departments, to employ additional clerks to arrange and index the papers in their respective offices.

Mr Marcy explained, and advocated the objects of the amendment. He said, that there were such a vast number of papers in the different departments, which had been accumulating ever since their organization, that it was frequently, with difficulty, that important papers sought for could be found; and it frequently happened, that papers that were wanted were passed over when they were in the office, owing to the number, and want of arrangement, of the documents on file.

Mr Clay said, he could readily believe that the heads of the departments could not transact their official business with that ease and correctness necessary for the public service, without a proper and systematic arrangement of their papers; but, he asked, how were the clerks in the departments employed? Their number had been increased during the present administration, and he certainly thought there were enough of them to put their papers in proper order.

Mr Smith said, he did not intend to enter into any debate on



the subject. The letter from the Secretary of State, would show the importance of the business, compared with the small appropriation asked.

The letter from the Secretary of State was then read, stating the necessity of the work, proposing a plan for indexing and arranging the papers, and stating that an appropriation of \$6,000 would be necessary for that department. The secretary proposed that five clerks should be employed for one year, four at \$1,000 each, and, as the services of a gentleman of talents and experience would be required, to take the direction of the business, one of that description should be employed at a salary of \$2,000.

Mr Clay could still see no reason for the appropriation. He repeated that the clerks in the departments were, or ought to be, competent to the arrangement and filing of the papers pertaining to their own business. The law provided a sufficient number of clerks to transact the business of the departments; and at the close of the session, while the appropriation bill was in its passage, so necessary for the service of the government—while so many were waiting for the money due them, and even the Secretary of the Senate had to raise funds on his own responsibility, to pay the members of the Senate—a covert application was made for more assistance. The Secretary of State asks \$6,000, and the committee have agreed to give him \$2,500; and, to keep the other departments in countenance, and prevent them from thinking them-

selves neglected, a like sum was given to them.

After some remarks from Mr Forsyth in favor of the amendment, Mr Foot said, surely the Senator from Kentucky must be fully satisfied of the necessity of making the appropriation, after hearing the letter from the Secretary, declaring that the papers and the business in the office were in great confusion, especially since the Secretary has stated, so fully and distinctly, the cause of this confusion, viz.; that it had been occasioned by the removals that had taken place in that department. Is it not indispensably necessary that the business of the office should be kept up, to prevent entire confusion, even if these *removals* have caused the difficulty? The public service ought not to suffer. It was well known how much confusion and delay had arisen from the removal of clerks. Persons of capacity and experience were turned out, and others put in their places, who knew not where to look to find necessary papers.

Mr Marcy said, the committee had proposed the amendment under the belief that those gentlemen whose experience in public business had convinced them of the utility of the measure contemplated, would join in its support. From the vast number and importance of the documents in the Department of State that needed arrangement, he was convinced, that the appropriation was necessary for that department at least, and he presumed it was also necessary in the others. As so much opposition, however, had

been made to the amendment, he would advise the chairman of the committee to withdraw it.

The question was then put, and the chairman of the committee was permitted, by unanimous consent, to withdraw the amendment.

The next amendment taken up, was the one proposed by Mr Ellis, appropriating \$3,500 for extra clerk hire in the office of Surveyor General, under the direction of the Secretary of the Treasury.

Mr Buckner opposed the amendment, on the ground that the business of the office had got behind hand through neglect of duty on the part of the surveyor; and that the adoption of the amendment would be tantamount to a reward for negligence. He could not, consistently with his duty, sanction the payment of extra clerks to perform those duties for which the officer claiming assistance, was in the receipt of a liberal salary. If the officer would not attend to his duties he ought to be dismissed, and some efficient person appointed in his place. — There were many, who would be glad to perform all the duties of the office for the sake of the salary, without calling for extra clerks to do that, which they were well paid for doing.

Mr King entered into an explanation, showing the necessity of the appropriation, and the reasons why the business of that particular office had got in arrears. No blame could be attached to the present incumbent, the business having got behind hand in the time of his predecessor, and such was the constant increase and accumulation of business arising

from the vast number of surveys, sales and patents, that it was utterly impossible for him to bring it up with the insufficient aid allowed by the government.

The amendment was finally agreed to.

Mr Clay then rose to call the attention of the Senate to the appropriation under the head of diplomatic services for a charge to Guatemala. He felt an interest in this matter, because the abolition of this agency was one of the measures of retrenchment recommended by the administration of Mr Adams; and if the present administration is indisposed to redeem any of its own pledges of reform, he hoped that at least those of the last administration would be left undisturbed. According to the latest accounts there were two presidents there. The one, who held the power, had been obliged to march from Guatemala to St Salvador, for the purpose of meeting his rival, and we were yet to learn the result of that meeting. If civil war was actually raging, it would be improper to send an agent at this time. If it were not, the commerce of the country was not of sufficient importance to justify the measure—the whole profits on it would not defray the expenses of the mission. The number of our foreign missions had increased within a few years from 14 to 18 or 19.

Mr Clay then moved to strike out the appropriation of salary and outfit for a minister to Guatemala.

Messrs Tazewell and Smith said, if the present opposition had been made, while the nomination of this charge was pending, there

were doubts, whether they would have voted as they had done. — The former gentleman said, that as the Senate had created the office, he felt unwilling to annul it by a sort of side-blow. He had not seen the necessity of sending the mission to Guatemala; but the Senate had, on a former occasion, determined otherwise, when a greater necessity did not exist than at present. The motion was finally lost, yeas 8, nays 30.

On the 13th of April the bill was again taken up, when Mr Miller of S. C. moved to strike out the word 'France' in the clause appropriating certain outfits, and also to change the amount of appropriation from \$36,000 to \$27,000, so as to strike out the appropriation for an outfit for a minister to France. He was of opinion, that the Senate ought not before hand to make this appropriation, and thus to furnish the President with a pretext to recall the present minister, and make a new appointment during the recess. Mr Miller avowed his object to be, if Mr Rives should come home in the recess, to prevent a new appointment. — If the President chose to appoint a minister during the recess, he might provide him with an outfit out of the contingent fund. Regarding it as doubtful, whether the President had the power to appoint during the recess, he would not consent to confer it by legislation.

Mr Smith said Mr Rives had asked leave to come home. The President had asked for an outfit for his successor.

Mr Chambers thought the present administration had exercised a censurable patronage; but he did not go the length of the gentleman from S. C., Mr Miller. — He thought cases might occur, where the President could properly appoint in the recess of the Senate.

Mr Clay coincided in the opinion that cases may occur, in which it would be proper for the President to send out ministers during the recess. But this was a right to be exercised with great prudence. He was inclined however to vote for the amendment of the gentleman from South Carolina, because there was money enough in the fund appropriated for contingencies. It had increased very much, and it was seldom, that any of it was expended. During the late administration, by a proper economy, nearly the whole of this contingent fund had been saved; and in the last year of that administration, such had been the accumulation of the fund in preceding years, that not a cent of appropriation was asked for under this head. It could not, therefore, be necessary to make a specific appropriation for this object.

Mr Foot suggested an amendment, viz. to make the outfit available, if a minister were appointed, 'by and with the advice and consent of the Senate.'

Mr Smith said, if the bill were so amended, it would have no effect on the President. He knew what were his constitutional rights, and he would exercise them.

Mr Miller declined to accept the amendment of the gentleman from Connecticut. If the Presi-



dent had determined, that Mr Rives should return, let him make the nomination now that appropriation might be made.

Mr Clay stated the practice of the government, with respect to the contingent fund, under Mr Madison's administration, and advocated the propriety of a uniform decorum towards a co-ordinate branch of the government, and closed with stating that, without going into a discussion of constitutional right, which he thought unnecessary, it was sufficient to show that the contingent fund would cover the outfit.

Mr Tazewell expressed his satisfaction, that the attention of the Senate had been drawn to this subject. He had always felt a strong desire to know, to what objects this contingent fund might be properly applied. He entered into an explanation or history of the contingent fund, and of our foreign missions. He contended, that the expense of appointments in the recess of the Senate were intended to be met by the contingent fund.

The question being finally taken on this amendment, it was carried by the casting vote of the Vice President, yeas 21, nays 21.

On the 17th of April the bill was again considered, and Mr Poindexter moved to reduce the appropriation for the minister to Colombia, but the motion was negatived, yeas 20, nays 21. The motion was again renewed in the Senate, and was again rejected, yeas, 19, nays 22.

On the 19th of April, when the question came up in concurring with the committee of the whole

in the amendment, striking out the appropriation for the outfit for a minister to France,

Mr Smith arose and called for the yeas and nays on the question, and addressed the Senate at length in opposition to the amendment.

Mr Smith said, he had, since this subject was under discussion, further examined into it, and he was now satisfied, that the contingent fund could not be properly chargeable with the outfits of ministers. Mr Smith gave a history of the different contingent funds, and their applications under preceding administrations. He said, that if the Senate refused this appropriation, no matter how urgent the public service, no minister would be sent to France to supply Mr Rives's place, until the next Congress provided the outfit. This fund could not be properly applied to objects specific in their character, and for which specific appropriations are required. If they are paid out of this fund, it is in the nature of a loan, and the amount must be refunded. Mr Van Buren could draw no outfit until it was given to him by this bill. It had been said, that Mr Randolph drew his outfit from this fund. If so, it was probably because there was no other fund within reach of the Executive.—The President did consider, that the striking out of the word 'France' would be tantamount to a declaration, that no minister should be sent to that Court.

Mr Webster observed, that it appeared to him that the exposition given by the Senator from Maryland, removed the necessity of continuing the appropriation in



the bill. It had turned on the power of the President over the contingent fund, and showed his right to apply it in cases like the one apprehended,—the providing an outfit for a minister in the recess. According to the exposition of the Senator from Maryland, there was a fund at the disposal of the President, which when he found it necessary to use for such purposes as could, without injury to the public service, be made public, was drawn in the usual way; and when it was necessary to apply it for the secret service of the public, the certificate of the President alone was sufficient to draw it. The Senator further says, that this fund is for advances, for extraordinary occurrences—that the President may borrow it—not take it.—Then where is the necessity for the appropriation in the bill. If Mr Rives returns home during the recess, and the President finds, that the public service requires another minister to be sent in his place before the meeting of Congress, he can, by his certificate, draw the money to pay the outfit from this very fund. It was not likely, that there would be any other extraordinary occurrence in the short time before the next meeting of Congress, to absorb the whole of this fund. Mr Webster was not disposed to encourage the appointment of ministers during the recess; and for this particular reason, the Senate would be in some degree committed, because, when the nomination came before them, the minister would be abroad in the discharge of his duties. Was it

proper, Mr Webster asked, by such appropriations, to get the Executive in the habit of making appointments, that might lead to collision between him and the Senate. Mr Rives was appointed during the recess—a very proper appointment as regarded the minister; and so were both the ministers to England and Russia. Now this was inconvenient, for the reasons given before; it placed the Senate in a situation of embarrassment. They must either confirm a nomination they did not approve of, or encounter the obvious difficulties incident to a rejection. Appointments, therefore, ought to be made during the session, when there could be no danger to the public interest by a discussion of their propriety.

If, during the recess, a vacancy occurs, either by sickness or death, there is a happening—something extraordinary—a contingency not foreseen, and the President can then, if the public service requires immediate action, make the appointment, and defray the expense out of the fund provided for extraordinary contingencies. These were the views Mr Webster entertained with regard to the question under consideration, and he should accordingly vote for concurring in the amendment.

The Senate generally participated in the discussion, and the amendment was concurred in, yeas 23, nays 21.

The bill was read as amended a third time, April 24th, and having received the sanction of the Senate, was sent to the House for concurrence.

Most of the amendments were acceded to ; but some were productive of an animated discussion. That striking out the outfit for a minister to France was particularly objected to, and the debate presented the singular spectacle of an ex-president, sustaining with great ability in Congress the Executive Department, while administered by a successful rival, from what he deemed an encroachment on the part of the legislature.

Those who supported the amendment of the Senate, contended that there was no vacancy then existing ; and that if there was any necessity of sending out a minister suddenly to supply a vacancy occurring during the recess, that the expenses could be borne from the contingent fund ; that if a vacancy must necessarily take place at any fixed time, the President should now nominate the person to fill the vacancy ; and that Congress ought not, by appropriating for a vacancy, which did not and might not exist, to sanction the practice of sending out ministers upon the appointment of the President, and more especially at a time, when (as experience had shown) the power was so liable to be indiscretely exercised.

Those who opposed the amendment, denied the authority of Congress to interfere in the matter. The Executive was the department to which the diplomatic relations were entrusted, and a refusal to appropriate would be a denial of the means for the execution of his duties. If the President should send out an unfit person, the House possessed the power of impeachment in case of cor-

ruption, or gross incompetency in the administration of the government.

When the amendment came under consideration (April 27,) Mr McDuffie, on the part of the committee of ways and means, (to which the bill as amended had been referred,) moved that the House concur in the amendment of the Senate. In the event of the return of Mr Rives in October next, he said, at which time it was understood he might be expected, the national interests would sustain no injury from our being unrepresented in France, for it was competent for the President, in case any emergency required the appointment of a minister during the recess of the Senate, to appoint one, and to provide for his outfit from the diplomatic fund. The Senate, in the exercise of their undoubted prerogative, had made the amendment, and he trusted that the House, for the facilitation of the public business, would deem it proper to agree to it.

Mr Archer was opposed to the proposition, and trusted that the amendment would be disagreed to. He submitted a motion to that effect, and entered into a detail of the reasons, which had led him to the conclusion, that the sum for the outfit ought to be voted by Congress. Mr Rives had received permission to return in October, and there was nothing which could raise a supposition, that he would not avail himself of that permission. He put it to the House, whether, in the present state of public affairs abroad, with Europe trembling on the verge of a convulsion, and with France,

the very centre of the interest attached to European affairs, the Senate could refuse to concur in the nomination: whether they would consent, that this country, whose welfare was so intimately involved in the great question of war and peace, perhaps soon to be determined there, ought to remain unrepresented. Even those of the senate who opposed the grant, admitted that the country ought to have a minister at Paris, but argued that his outfit should be paid from the contingent fund. To this, he, (Mr Archer) had a decided objection, for he doubted the constitutional power of the President to apply any part of this fund to such an object. It was granted for different purposes; it amounted to only \$30,000, and it was highly probable that demands would be made upon it, which that sum would be inadequate to meet. After some remarks on the difficulty and embarrassment, which would arise from the House interfering between the two branches of the Executive, the President and the Senate, on the difference of opinion between them as to the appointment of a minister, and the provision for his outfit, he concluded by expressing his hope, that the House would disagree to the amendment, and persist in the appropriation.

Mr Wayne rose to make a suggestion to the House, which he did hope might lead to a compromise. It was this, that the amendment of the Senate should be rejected, and a committee of conference be appointed; and then, if the Senate still insisted on their amendment, to increase

the contingent fund from \$30,000 to \$43,000, to provide for this outfit; they might thereby save the power which the Senate seemed to believe they had, and at the same time make a provision, by which the President would be enabled to meet any exigency which was likely to occur.

Mr Adams said, he looked at this in a different view from the gentleman who had just taken his seat, still less could he agree with the chairman of the committee of ways and means, to assent to this amendment of the Senate. He considered, that that body in striking out this appropriation, had made an assertion of a power with respect to the President of the United States, which they did not possess. He believed the Senate were wrong in what they had done. The constitutional power was this — if our minister to France should return during the recess of Congress, the President under the powers conferred on him by the Constitution, might appoint a successor; his nomination depending, for its confirmation, on the Senate. By deciding, then, not to make this appropriation, the Senate have encroached on, if not virtually denied this power of the President, by refusing to grant him the means necessary for the performance of this act. Mr Adams said, he did not know that much importance ought to be attached to the individual case, but he did know, that if a principle was established by which the President would be controlled in the exercise of an act of constitutional power, no principle could be more pernicious in its effects. It



had been said, that if it should be found necessary to send a minister to France, during the recess of Congress, the expenses of his outfit may be provided for out of the contingent fund. They were told, in reply, that the President had doubts as to his power of so applying that fund. He had never heard before of such scruples in the mind of any President. If they looked to the accounts of the Treasury Department, they would see numberless instances in which that fund had been so applied ; but it had always been refunded. One reason, however, why they ought not in this case to put the President to the necessity of using this fund, was the suggestion they had heard, that the public service would require the whole of that fund for other purposes. It had been said, that that fund goes by the name of the fund for secret service money ; and it had been intimated that no necessity could exist for such a fund in time of peace. It had been so named, and he recollected the report of a celebrated committee, recommending its abolition. He had the more reason to recollect this, because it happened at the very time, when he, (Mr Adams) had the whole of that fund employed in the negotiation of the Turkish treaty. He differed from the committee who made the report alluded to, that such a fund was useless in time of peace ; and he was convinced of the impropriety of paying out of that fund the outfits of our ministers, when they could be otherwise provided for. Another reason why he disapproved of the act of the Senate, was,

that it would seem a sort of anticipatory disapprobation of the appointment of the President during the recess. He saw no reason to think the President would not discharge his duty, and he would never, whilst he sat on that floor, record his voice in favor of a measure, the only tendency of which must be, to thwart him in that discharge of his duty.

Mr McDuffie said, that the gentleman from Massachusetts seemed to suppose that the House would by concurring in the amendment, take part with the Senate in its contest with the President of the United States. He thought that it would have a contrary effect. The argument thrown out by the gentleman was tantamount to an assertion that the President was the only branch of the executive who had the right to send ministers to foreign Courts. Mr McDuffie said that if he had been in the Senate, he should not have voted with the majority on this amendment ; but if he had done so, he would never have surrendered the principle which that amendment involved ; and he hoped that the House would never do anything which would induce the Senate to surrender a principle involving their right as a component part of the Executive power of the United States. According to the views which he took of the matter, the Senate did not, by this amendment, say to the President you shall not send a minister to France — nor did they say we will not suffer Mr Rives to return — all they said was, we will not act in advance — and in a



manner, which may interfere with the exercise of our constitutional power over the appointment.

The power of the President to send out a minister during the recess of Congress, was only given *ex necessitate rei*, and it was not certain, that the necessity in this case would occur; but they were told this was not a contingency. What was the fact? Simply this: permission had been given to Mr Rives to return if he pleased; but must he necessarily return after October next? They knew of no such compulsion. It was true, he might be recalled, even if he should change his mind as to his own wish to return; but did they know, that in such an event he would be recalled. He (Mr McDuffie) considered this as perfect a contingency, as if the idea of returning had never entered the mind of any human being. He was surprised to hear the honorable gentleman from Virginia express an opinion, that the application of the contingent fund to the purpose of an outfit, would be a violation of the principle of specific appropriations. There could be no doubt of the power of the President, so to apply this fund as that the public service might not suffer; if he did not choose to do so, it would be no fault of Congress. Mr McDuffie regretted, that the example of Jefferson had ever been departed from. He thought there ought to be no contingent fund; but that every President should send an account to Congress, stating, item by item, how the fund had been applied. Mr McDuffie concluded, by stating the

necessity for the passage of the bill. If the House did not concur, and sent it back to the Senate, he did not believe that body would recede; and though, as he had said, he differed with them as to this amendment, yet he did not think, on the ground of principle, they ought to recede; nor should that House do any thing, which would have the appearance of a wish to coerce them to an assent.

The question being at length taken, the House refused to concur in this amendment, yeas 102, nays 77.

The amendment, making an appropriation of \$3,500, for extra services in the Surveyor's office in Illinois, Missouri and Arkansas was also rejected, yeas 70, nays 51; as was that increasing the appropriation for a bust of Jefferson to \$5,000, and that for purchasing a statue of Washington.

The bill was then returned, and the Senate receded from all the amendments disagreed to with the exception of the two clauses re-appropriating for the improving certain bays and rivers, sums which had been before appropriated, but had been paid over to the surplus fund; and that striking out the appropriation for a statue of Washington, which was insisted on, for the purpose of holding a conference, with the understanding, that a joint resolution on the subject would be reported to both Houses by the committee of conference.

When Mr Smith moved to recede from the amendment by which the Senate had stricken out the appropriation for the outfit of a minister to France, a new dis-

cussion and all the arguments, which were advanced on both sides, when the question was first under consideration, were again urged.

The Senate, however, finally receded from the amendment, yeas 23, nays 21; and the bill was again returned to the House for its decision upon the remaining points in difference.

Mr Verplanck moved, that the House recede from its disagreement to the amendments, making appropriations for improving certain bays, &c.

Mr McDuffie opposed the motion, no information having been received as to the necessity for those appropriations.

Mr Mercer thought the practice of inserting such objects in an appropriation bill was liable to great abuse. Individual members might select local or favorite objects in their own districts, and get them introduced into an appropriation bill, and thus avoid the responsibility of voting against a general bill on internal improvements, including those with other kindred objects.

The question was put on receding, and decided in the negative; and the House, on motion of Mr Sutherland, agreed to *insist* on its disagreement to the Senate's amendment.

The House *receded* on the subject of the Statue of Washington, and concurred in the Senate's amendment (which strikes out that item.)

The House also *insisted* on their amendment in reference to the road and bridge at Norfolk. The bill was then again sent to the Senate, which body re-

ceded from the amendments in dispute, and the bill was passed, May 2d, and having received the sanction of the President, became a law.

By this act the following appropriations were made, viz.

For the expenses of the executive department, including salary of the Vice President, all the departments, at Washington and of the territorial governments,	\$690,532
Survey of the public lands,	160,000
Diplomatic intercourse,	297,900
Expenses of Congress,	667,550
“ of the judicial department,	306,509
“ of light houses, beacons &c.	211,878
For pensions,	1,550
Miscellaneous expenses,	152,211.05

By a supplementary act the following appropriations were made in addition to the above, for the support of the government, in 1832, viz.

For the executive department,	\$10,750
For expenses of Congress,	105,960
For Miscellaneous expenses,	48,807

The bill making appropriations for the naval service for the year 1832, was taken up in the House on the 16th of February, and having received the sanction of that body, was sent to the Senate where it passed without amendment into a law.

By that act there were appropriated

For Pay, Subsistence, and Provisions,	\$1,897,632
For repairs of vessels,	530,682
For Medicines, and Hospital Stores,	25,000
For Repairs, and Improvement of Navy Yard,	397,595
For ordnance,	10,000
For enumerated Contingencies,	250,000
For non-enumerated, do.	5,000
For expenses of the Marine Corps,	186,234

By separate acts there were appropriated for the same service,  
 For arrearages prior to 1832, 80,000  
 For arrearages in Surveying coast, 4,488  
 To provide Iron tanks, for the use of the Navy, 131,795  
 For constructing and completing naval hospitals at Norfolk, Charleston, New York, Pensacola, and Philadelphia, 147,500  
 For rebuilding the Macedonian, Java and Cyane, 258,484

An act was also passed reviving the act of 1807, to survey the coast of the United States, appropriating \$20,000 for that purpose, and authorizing the President to employ such astronomers and other persons in that service as he might deem proper. In pursuance of that authority, the President appointed F. R. Hasler, a celebrated mathematician and astronomer, born in Switzerland, to superintend the execution of this important survey. In the prompt commencement of this work the Executive rendered an essential service to the country, and by the selection of a suitable agent, has ensured the proper execution of a work, which will reflect honor upon the government in after ages.

The bill making appropriations for 1832, for fortifying the coast of the United States, was taken up in the House on the 16th of February, and having passed through both branches of the Legislature without opposition, became a law.

By that act the following sums were appropriated for the completion of fortifications, viz.

For Fort Adams,	\$100,000
“ Hamilton,	10,000

For Fort Columbus and Castle Williams,	50,000
“ Monroe,	72,000
“ Calhoun,	80,000
“ Macon,	30,000
“ on Oak Island,	7,000
“ on Cockspur Island,	46,000
“ at Mobile Point,	87,200
For Fortifications at Charleston,	30,000
For Fortifications at Pensacola,	100,000
For preservation of Castle Island,	20,000
For preservation of Georges Island,	9,000
For preservation of Peapatch Island,	2,000
Contingencies,	10,000

The military appropriation bill was taken up on the 23d of February, and after being amended received the sanction of both Houses, and became a law.

By this act, the following appropriations were made, viz.

For pay, forage and subsistence,	\$1,515,573
For Clothing,	202,492
For Medical and hospital department,	20,000
For Quarter Master's department,	225,000
For Transportation,	169,000
For West Point Academy,	23,439
For Contingencies,	10,000
For Arrearages,	20,500
For National Armories,	360,000
For amount of Fortifications,	100,000
For Ordnance Service,	70,000
For Arsenal,	80,700
For Recruiting service,	38,700
For Expenses of Militia-called into service in 1831,	55,232

A supplementary act was afterwards passed, making the following additional appropriations for the military service of 1832, in consequence of the Indian war on the northwestern frontier, viz.

For the increased expenses of the quarter Master's department in the Indian war,	\$100,000
For expenses of Rangers,	83,617
For expenses of militia in Illinois,	400,000



For expenses of officers of rangers,	\$50,000
For transportation of army and subsistence and ordnance,	120,000
For subsistence of militia,	56,250
For expenses of Surgeons,	7,133
For barracks at Key West,	15,000

The bill making appropriations for the Indian department for 1832, was taken up in the House on the 30th of March, in committee of the whole, and Mr Bell moved an amendment to the following effect:

‘To defray the expense of conducting a deputation of western Indians from their residence, at the head waters of the Missouri, to Washington and back, \$6,450.’

Mr Bell in explanation, said that this sum was necessary for the purposes contained in the amendment. He did not consider it politic to encourage such deputations; yet as some Indians from that distant country had left their homes for the purpose of seeing Washington, when they arrived at St Louis, which was nearly 2000 miles from their residence, the superintendent there thought it advisable, as they had come on so far, that they should see some of the cities of the Union. The secretary of war had furnished the committee for Indian affairs with a detailed account of the expenses already incurred, and what he estimated would be required to defray the expense of their return, which, if necessary, should be read to the House.

Mr Ashley, expressed himself hostile to the whole proceeding, as he could not consider it other than a most extravagant expendi-

ture, for a deputation which consisted only of four Indians, who had reached this city with the sub-agent. He observed one item of \$700 to be given to that agent, as an extra allowance for collecting this party, and returning with them. This duty he considered as belonging to his office, and for which the agent was paid by his government. He was willing, as the deputation had come on, to defray the necessary expenditure of their journey. But he could not vote to give a sum to a man to perform a service, which came within the precise line of the duty to which he was appointed.

Mr Bell admitted, that there was no person in whose opinion, on this subject, there could be greater confidence placed than in that of the honorable member from Missouri. But the House would consider how difficult it must be to reduce the scale of expenditure in this instance,—the war department having, when the subject was first represented to them, directed the expenditure to be made. He would state, in reference to the item of \$700 as extra allowance to the sub-agent, who had accompanied the deputation, that it was represented to the committee that the agent was entitled to that sum, from having been at extraordinary trouble in collecting them; and although only four Indians arrived with him here of those who had originally set forth on their journey; yet there was a larger number whom he collected, and had in charge until they arrived at St Louis, but who had returned



back from thence, having there received some intelligence, which was so disagreeable as to deter them from proceeding further. The committee, in recommending that amount to the sub-agent, did so from a belief that the service was a perilous one. They took into account, that as the journey had already employed the sub-agent one year in coming hither, it would require another year for the return of the deputation, and that by giving him this extra allowance for such services he would still be only placed, as to salary, in the ordinary situation of an Indian Agent. He repeated his objections to such deputations in future; and knew such was the opinion of the present Executive against them, unless in cases where it could be shown explicitly there was some direct object to be accomplished, the making of a treaty, or the reconciliation of dissensions among the tribes, which could not be otherwise effected. The present expenditure was, therefore, in all probability, the last expenditure of the kind that would be required for a long period to ensue, and he hoped the House would not object to defray it under all the circumstances, which had been submitted to them.

Mr Mason, of Virginia, moved to reduce the amount of this item by deducting from it \$700. The agent had continued to receive his full salary, and also his travelling expenses. This was quite enough.

Mr Bates, of Massachusetts, said that this whole Indian concern presented one great dark

gulf, which he could not fathom. He should like to have it explored, and to see the bottom of it.

Mr Ashley denied that the agent had been obliged to travel very far from his own post to collect this deputation, or had been exposed to any peculiar hardships. Unless he was much deceived, he had seen the agent at St Louis last year. It was too much the habit of Indian agents to be found everywhere but at their posts. Mr Ashley had travelled a great deal in the Indian country, had been exposed to great dangers and losses from Indians, and never, in all that time, had found more than two agents at their stations.

He professed his determination to examine these accounts to the bottom: the charge appeared to him very extravagant. Its having been allowed by the Secretary of War, had no manner of weight with him whatever. He would leave the sanctioning of such an account to no man living, but would examine it for himself.

Mr Vance expressed his dissent from the opinion expressed by some other gentlemen, as to the inutility of these Indian visits to the seat of government. He considered them highly proper and expedient, and his wish would be, that all Indian treaties should be negotiated and concluded here. Yet it seemed strange to him, if the present administration disapproved of the practice, that the city should have been crowded with Indian deputations ever since the administration had come into power.

Mr Bell, disclaimed all intention of setting the two administrations in contrast as to this matter; and he thought it hard, that no remark could be made in any part of that House, but it must immediately be viewed as connected with political contests. He was far from holding himself bound to sustain whatever the present administration might have neglected to put down; nor did he claim for the existing administration a whit more, in relation to our Indian affairs, than for that which had gone out of power. The evils of the system were as chargeable on the one as on the other; nor had it so much as entered into his head to contrast them with each other.

After a warm debate, the motion of Mr Mason, of Virginia, prevailed, and the appropriation was reduced accordingly, and the amendment of Mr Bell was agreed to.

Mr Vance now moved to insert an amendment in the item 'for building of blacksmiths' shops and houses for Indian agents \$7,000,' by adding the words, 'by treaty stipulation.'

The House then adjourned, and on the 31st of March, Mr Verplanck went into some explanations in reference to the item before the committee. It had formerly been included under the general head of contingencies, but by the effect of a salutary reform introduced some years ago, (he did not refer to any political matters, but to a reform introduced by the committee of ways and means into the appropriation for this department)

that comprehensive classification had been broken down into the various particulars contained under it. Certain standing heads of expenditure had been fixed upon, and among them was this one for the houses of Indian agents. Such houses had always been provided by the government, and were built on the public domain, not, as had been erroneously stated, on the private property of the agents themselves. One of these agency houses was intended for the Winnebagoes, the residue were for those tribes, who had consented to emigrate to the West. The country to which they were going, was wild and uncultivated, and it was considered proper, that the agents who accompanied the tribes should have a suitable dwelling provided for them by the government. The expense was limited by the department.

Mr Vance moved to reduce the appropriation from 7,000 dollars to 2,000, to strike out the agency houses entirely, and confine the expenditure to blacksmith's shops required by treaty stipulation.

Mr Barringer, of North Carolina, though opposed to the general system of Indian removal, contended with earnestness for the propriety of giving the agents a respectable establishment in the new regions of the West.

Mr Dickson, of New York, was opposed to the appropriation on principle. The government did not build houses for its other officers, the President alone excepted, and it ought not to make an exception in reference

to a class of men, who, according to all accounts, were well paid for their services, and much in the habit of practising impositions on the government. If the statement of the gentleman from Missouri was to be believed, they needed no houses, for they were never at home. He had been told that some of these agents lived in very splendid houses built at the public expense, sometimes out of lumber which had cost forty dollars and fifty dollars per thousand.

Mr Bell, of Tennessee, said that part of the expense to be provided for had been already incurred, nor would the refusal of this item go any length toward the general reform, which he wished to see introduced in this department.

Mr Ashley, of Missouri, made some explanations of his former remarks. He had not intended to say that the agents were never at their posts, but that they were seldom or never to be found with the Indians. Many of them were worthy and respectable men, though many of them were but boys, or persons who were a burden to their friends, and could not otherwise be disposed of. He was in favor of this appropriation. He was for erecting respectable houses and putting respectable men into them.

After a spirited remonstrance by Mr Sevier, who contended that the affairs of the Indian department were administered with as much integrity as those of any other branch of the government, and were as open to inspection as any others, the question was

at length taken on Mr Vance's amendment, which was rejected, and the sum of \$7000 agreed to. This amendment having been disposed of, Mr Wickliffe moved one, restricting Indian agents from receiving, when on detached duty, anything in addition to their pay, except the actual expenses incurred. Which was agreed to.

Mr Ashley then moved an amendment, prohibiting the rewarding of Indians for settling disputes among themselves.

Mr Ashley stated in explanation, that he had been induced to offer this amendment, in order to put a stop to a practice, which had been productive of much abuse. It had been heretofore the policy of this government, when any difficulty arose among the Indian tribes, to appropriate large sums of money to be given to them, to enable them to settle their disputes. But his experience had convinced him, that this practice had a precisely contrary effect to what was expected; for so soon as the money given for such purpose was expended, the Indians sought out other grounds for difficulties, with a view to induce the government to give them further grants of money.

The amendment was agreed to, and the bill was reported to the House.

Upon the 3d of April, the question being on the usual appropriation of 19,500 dollars for the pay of superintendents and agents,

Mr Everett, of Vermont, asked for information respecting the *Sub-Agents* of Indian affairs, for



whose salaries an appropriation was asked. In doing this he stated his views on the subject. The system of Indian trading houses was established in 1796. By an act of that year, and by another of 1806, the President was authorized to establish Indian trading houses, and to appoint a superintendent of Indian trade, and an agent for each Indian trading house. By the act of 1811, in addition to these officers, the President was authorized to appoint, at discretion, an assistant agent for each Indian trading house. By the act of 16th April, 1818, the appointment of these officers, and also *Agents of Indian affairs*, (then for the first time established,) was vested in the President and Senate — that act also provided, that after the 18th of that month, no person should act in either of those offices unless *thus appointed*. In an act passed on the 20th of the same April, in relation to their salaries, the *Assistant Agents* are called *Sub-Agents*. No law, however, had created Assistant or Sub-Agents of *Indian affairs*. But the sub-agents were considered as attached to the Indian trading houses solely. By the act of the 6th of May, 1822, the trading houses were abolished, and, as a consequence, the offices of agents, and assistant, or sub-agents, for trading houses. There then remained only the offices of agents of Indian affairs. The Appropriation Bill, however, of the same year, makes provision not only for the salaries of Indian agents, but also, for *sub-agent*; and a similar appropria-

tion has been made every year since — from the appropriation asked for the present year, the number must be over thirty. Two sub-agencies were established for Upper Missouri, in 1824; and a few have been established by Indian treaties. Mr Everett then wished to be informed, under what law the residue of the sub-agents were appointed; and whether they were appointed according to the provisions of the act of the 16th of April, 1818 — by the President, by and with the advice of the Senate.

Mr Verplanck felt indebted to the honorable member for bringing the subject before the House, as it was one which would demand some legislation. Governor Cass and General Clark had, in their report in 1829, mentioned the circumstance. The present power for the appointment of these persons, rested in the general power given by the act of 1802; under this power, the interpreters were appointed, and when, in 1818, the salary was fixed, the appointment was in some sort recognised.

There was no specific sum appropriated for them up to 1800. This appointment was made in the cases where they were stipulated to be made by treaty, without the consent of the Senate. It was altogether a subject, which would require some attention and a liberal legislation. He would observe, as to the present appropriation, that he was informed by the department, that a liberal reduction might hereafter be made in the annual appropriations. He was informed that four, five, or



six sub-agencies might be discontinued. But the committee was induced to recommend the usual appropriation in the estimate for their establishment as now existing.

The amendments were then concurred in, and the bill ordered to a third reading.

The bill was then passed, and sent to the Senate for concurrence. In that body, it was amended by adding \$5000 for the relief of the Seminole Indians; and a motion was made by Mr Tipton, to strike out the provision prohibiting the practice of rewarding Indians for settling disputes among themselves; but it was negatived, yeas 7, nays 34.

The amendment of the Senate was agreed to in the House, and the bill as amended became a law. By this act the following appropriations were made for the service of the Indian department for 1832, viz.

For the expenses of the Indian agencies,	\$79,525
For presents to the Indians,	20,000
For expenses of Indian intercourse,	27,594
For blacksmith's shops, &c,	23,766
For contingencies,	20,000

By the other acts making the appropriations for the Indian service during the year 1832, there were appropriated,

For Indian annuities,	\$349,239
For education and civilization of Indians,	27,500
For blacksmiths, millrights, &c,	64,455
For transportation and distribution of annuities,	11,520
For vaccination of Indians,	12,000
For claims for property of Indians relinquished by treaties,	282,613
For expenses of removing Indians,	288,990
For relief of friendly Indians on north west frontier,	20,000

Upon taking up one of the

above bills, viz: the bill making appropriations in conformity with the stipulation of certain treaties with the Creeks, Shawnees, Ottowas, Senecas, Wyandots, Cherokees and Choctaws,

Mr Bates, of Massachusetts, inquired if any information had been furnished by the secretary of war, in pursuance of a certain resolution agreed to by the House on the 15th of March, 1832, in relation to the payments made or to be made, by virtue of treaties, to the several Indian tribes.

Mr Verplanck replied, that no answer had been given as yet. That the delay had been occasioned by the voluminous character of the documents. The object sought for could not bear on the bill, whatever grounds they might furnish for future legislation.

Mr Bates could not consent to vote for these appropriations, until the information sought for was furnished to the House. He objected to the manner, in which the annuities had been paid. He was informed, that some of these tribes had not been paid at all; while, in other cases, payments had been made but partially to individuals, instead of to the nations or tribes respectively. But 500 dollars of the annuities, of the Cherokees which was \$6,000, had been paid. He contended, that such proceedings were not in fulfilment of the contracts with those tribes, respectively, and protested against the practice altogether, which would lead to numerous private claims, that would prove troublesome and vexatious to Congress, hereafter.

Mr Wickliffe inquired, if the fund of \$500,000 voted by Congress towards the removal of the Indians west of the Mississippi, was not applicable to these purposes?

Mr Verplanck replied, that he did not see how any part of the fund alluded to could be applied for any of these objects.

Mr Davis inquired, how much of the appropriation of \$500,000 was unexpended.

Mr Bell replied, he believed the unexpended balance to be about \$193,000.

On motion of Mr McDuffie, the bill was amended, so as to prevent any payment being made for improvements on their lands, except to Indians removing from Georgia, in pursuance of the treaty of 1828.

The subject was again renewed in the House on the 23d of May, when Mr Bates of Mass. moved and obtained the re-consideration of the bill making provision for the payment of Indian annuities, and thereupon offered an amendment restoring the mode of paying these annuities to that practised previous to the 4th of March, 1829, unless in cases where the Indians themselves should prefer it otherwise. Mr Bates went at length into an exposition of his views on this subject, protesting against the changes in the mode of payment, which had been made by order of the late Secretary of War, on the ground chiefly, that payments to individuals were not payments to the tribes in their national capacity, and did not discharge the debt of the United States to the tribe

as such. He objected to the multiplication of vouchers, and the complication of accounts, occasioned by the new arrangement; and insisted, that Congress had no evidence, that the annuities had been paid over to the Indians at all.

Mr Bell replied at length to these objections, and though he did not consider the question as of vital interest at all, thought the amendment involved an imputation on the conduct of the government, from which it was necessary to vindicate it. He waived the question as to the independent national character of the Indian tribes; explained a reply of Mr Jefferson's to the Upper Creeks, which had been commented on by Mr Bates; and insisted, that Mr Jefferson's view of Indian policy was to govern the tribes by intercourse, and by regulating their commerce. He insisted, that the manner in which we withheld the annuities as an offset, when depredations had been committed, (the amount of which depredations was liquidated by this government alone,) was a proof of the dependent light, in which the tribes had always been viewed and treated; and that the legislation of this country, with respect to the Indians, had always been governed by a policy, which regarded the interests of the United States. The evidence, he said, was in the Department in regular annual returns, which showed how far the annuities had been paid. The two modes of payment were equal as to expense.

Mr Verplanck then went into an explanation of the manner in

which the 360,000 of annuities were paid to the eighty different tribes of Indians who received them, and showed, that the alteration complained of by Mr Bates was not a general, but a particular regulation, having reference to the Cherokees alone. The mode of payment was different in different tribes. The amendment, though founded on the condition of the Cherokees, would, if adopted, apply to every tribe alike, and thereby involve in some cases an express violation of treaty. Fearing that the amendment would lead to gross abuses, Mr Verplanck was opposed to its adoption.

With the view of avoiding the decision of the question involved in this amendment, Mr Root moved the previous question, which cut off the amendment, and the call was sustained by the House, yeas 86, nays 69. The bill then passed, and became a law without further opposition.

That class of appropriations, which provoked more of a party opposition than any other, fell under the head of internal improvements. The members from the south, and the supporters of the administration from the eastern States, and from New York, were decidedly opposed to appropriations of this character, and a systematic effort was generally made by them, to defeat the bill, and failing in that, to reduce the appropriations to the lowest point.

This was in conformity with the views of the Executive, as

expressed in his action upon several bills of this nature.

The works which had been already commenced, required further appropriations in order to complete them; and the constitutional objection, which was considered conclusive, against the commencement of works of the same kind, was not deemed to extend to appropriations for those in a state of forwardness! A bill was therefore reported by the committee of ways and means, making appropriations for these works for 1832.

This bill was taken up in the committee of the whole House, March 31, and having been read, Mr Verplanck, the chairman, pro tem, of the committee of ways and means, proposed an amendment appropriating \$5,868, for repairs done to the Cumberland road in 1831, by a mail contractor.

Mr Verplanck said, the sum was for repairs made to the road, which were absolutely necessary to make it passable. They had been made by the contractor, not for his own individual benefit, but for the public interest, which would otherwise have been seriously injured by the delay in the transmission of the public mail. The Post Master General and the late Secretary of War had borne testimony to the necessity of the expenditure, and it was but just, that the person who had made the outlay should be reimbursed.

Mr Crawford objected to the appropriation. Last session of Congress, he observed, the House had refused to grant

\$100,000, for the repairs of the road, and yet they were now called on to sanction an expenditure made by the authority of the Postmaster General and the Secretary of War, for repairs of this very road. He asked the House, if they were prepared to allow the executive officers to expend money, not only without the consent of Congress, but where one branch of Congress, as in the case of the Cumberland road, had actually refused to make an appropriation? He hoped the amendment would be rejected, and rejected it would be, except gentlemen were for establishing the most dangerous of all precedents, by taking out of that House the controlling power which it possessed, and of right ought to exercise over the public expenditure.

Mr Wickliffe said, that in fact, the road had been impassable, and the United States' mail had been obliged to be carried part of the way by another course, causing much delay in its transmission. — The \$4,000, or \$5,000, expended by the contractors, had, he understood, been applied more to the improvement of the road than the \$100,000, voted by Congress for that purpose five or six years ago. He put it to the gentleman from Pennsylvania, whether it would be just that Mr Stockton, the contractor, who had, in so public spirited a manner, repaired the road from his own private funds, should be permitted to lose his money, when the public derived such essential advantages from its advance?

Mr Irvin said, \$900 had been

voted in 1830 for repairs of the road, of a similar character to the vote asked for on the present occasion. Not a voice was heard from the west, he observed, in opposition to the great improvements on the sea board; and he asked, why there should be any objection to this trifling sum for the repairs of the great channel of communication between the Atlantic States and the whole western country?

Mr Crawford said he considered that the immense sums of money, so improperly expended on that road, had done more than any other thing to prejudice the great cause of internal improvement, of which he, (Mr Crawford), was as ardent a friend as any gentleman in that House. In answer to the appeal of Mr Wickliffe, he said he would have the gentleman to lose the money; he had expended it without proper authority; for he knew of no mode of applying the public money, to any purpose, without the vote of Congress.

The amendment was finally agreed to, as was one appropriating \$270,000, for the Delaware breakwater.

Mr Bullard moved an appropriation of \$20,000, for improving the navigation of Red River.

Mr Bullard explained, in what manner the appropriation of last year had been expended in the improvement of the navigation of that river, under the appropriation made in 1828. About fifty miles had been opened of an obstruction, extending in all, 60 or 70 miles; so that a steamboat had passed, though not without some



difficulty. Mr Bullard referred to a report from the war department, containing the detailed statement of the progress, which had been made in this improvement, accompanied with a recommendation from the department of the appropriation which he had moved. He dwelt upon the benefit which must result to the commerce of all the southern part of Arkansas from removing the obstructions in this river, through which a navigation of 1000 miles from the Mississippi, would be opened through one of the most fertile countries in the world. The work was now on the eve of completion. It wanted but one short cut more to admit the passage of boats; and another for the floating off of drift wood. But if the work should now stop, all that had been done would be lost. The opening which had been made would soon close, the drift wood accumulate, and the obstruction of the river become permanent and incurable.

Messrs Foster and Davis, of South Carolina, now made an attempt to postpone the bill, on the ground of the absence of Mr McDuffie, the chairman of the committee of ways and means, but the motion was negatived by a very large majority; and the question being put upon Mr Bullard's amendment, it was agreed to.

Mr Verplanck said, he had had an amendment printed two months ago, going to reinstate in the bill all the objects, which had been recommended by the department. The grounds on which the appropriations were recommended, were to be found at large

in the report of the engineers, which had accompanied the President's message, and had been printed for the use of the House. He then moved appropriations for public works at the following places :

For the Kennebeck river, Deer island, Boston; Hyannis, Nantucket, Oswego, Sodus Bay, Genessee river, Buffalo, Black Rock, Dunkirk, Presque isle, New Castle, Ocracoke inlet, Cape Fear river, Ohio and Mississippi rivers, Conesut creek, Ashtebula creek, Cayahoga creek, Grand river, Cleaveland, Black river, Huron La Plaisance Bay, for examinations and surveys, for the road to Chicago, to Fort Gratiot, and from Detroit to Sagana.

Mr Carson addressed the committee at length in opposition to these amendments. Nothing had ever appeared more extraordinary to him, than the course taken by the gentleman from New York, (Mr Verplanck), in proposing them. By adverting to the laws passed by the last Congress respecting internal improvements, it would be perceived, that the manner in which these amendments had been worded was calculated to deceive, and to impose on the House and the nation. As an example, he quoted the appropriation of the year before last, for 'completing the repairs in Dunkirk harbor, \$1,342.' The year following there was another appropriation, for 'completing' the same 'repairs,' of \$6,400. And the present amendment was in the very same words, 'for completing the repairs in Dunkirk harbor, \$10,200.' Thus the appropria-

ons for 'completing' this harbor appeared to proceed in a regularly increasing ratio.

Mr Carson proceeded to remark in the same strain upon other appropriations, and particularly those on Deer island in Boston harbor. — The last appropriation had been for \$12,000, which was to 'complete' the sea wall, and now to 'complete' the same thing the department very modestly asked for \$60,000. So with the break-water at Hyannis — that was to be 'completed' for \$8,400. — Now it was to be 'completed' for \$7,600. The pier at Oswego and the Delaware break-water, the improvement in the Genessee river, and several creeks in Ohio, received in succession their respective shares of animadversion.

He adverted to the large sum asked for; referred to the state of discontent at the south, and the obligation of making some sacrifice for the peace and union of the country. These amendments were part and parcel of that system, which was racking the Union in such a manner, that he feared it could not be brought together again.

Mr Verplanck said, in reply, that the language which had unfortunately occasioned the gentleman so much uneasiness, and on which he had commented so very largely, had been introduced through inadvertence. The estimates submitted to the department were sometimes very general, and at other times more minute. It often became necessary, either from the nature of the works pro-

posed, or for financial reasons, to distribute the appropriation through different years.

The total estimate was for completing certain works, and in breaking down that total amount into several annual appropriations, the original phrase, 'for completing' the work, had been erroneously retained. So much for the 'deception' practised on the House, and the nation. In some instances, the estimate of the engineers had not been exactly accurate, and, in others, the laws of nature had been found not to obey the laws of Congress, and works, partially finished, had, in some instances, been swept away. In other cases, the very delays in making the appropriations, produced the necessity for increasing them.

The gentleman had adverted, apparently with marked emphasis, to some of the improvements proposed for New York. The places there named were remote from Mr Verplanck's residence and interests. The object in those appropriations was not the improvement of the small streams, at whose mouths they were situated. It was the security of immensely valuable internal commerce on the lakes, and the appropriations were to be put upon the same ground, as to principle, with light houses, light vessels, and buoys. They were harbors of refuge. A pier had been completed at Oswego last year, and so beneficial had been the result already, that the tonnage at that port had increased in a single season from 2,000 to 20,000 tons. The present ap-

appropriation went to extend that benefit, by giving the harbor additional security. Should the appropriations for many of these works be now stopped, not only would the objects intended fail, but the partial progress, which had been made, would destroy the harbor; and Congress must appropriate to remove the materials which they had began to deposit.

As to the appropriation for Ocracoke inlet, the works there were of a singular character. It was a great experiment, which, if successful, must prove immensely beneficial to the trade between New York, and the ports of North Carolina, by diminishing the risk to which it was exposed, and consequently reducing the rates of freight and insurance. Whatever might be the opinion of the gentleman's constituents as to other works of improvement, the legislature of his State had declared this work necessary both for defence and economy. Mr Verplanck quoted a report from the war department, going to show, that the experiment, as far as it had been prosecuted, had been eminently successful. He then explained, why the item for Deer island was so much greater this year than last. The works, which had been begun there, had been swept away by a violent tempest. The island was very important as a defence to the outer harbor of Boston, especially to the navy yard to which it was directly opposite. Were it of no value to commerce, it would still be highly important as a military post.

Mr Whitlesey went into a very

full exposition of the importance and value of the works proposed on the southern shore of lake Erie. He showed how it happened, that the estimates for some of them had been augmented, in consequence of the necessity, which experience had developed for increasing the length of walls, piers, &c. These being erected on the sand continued to sink from year to year, until they reached the solid clay beneath, during which they must be continually augmented above. No engineer could calculate this with precision beforehand. Mr Whitlesey dwelt upon the importance of harbors of refuge to the shipping on the lake—the vast increase of that shipping, its exposure from sudden flaws, and the loss of lives formerly experienced. In 1810, there had been 10 vessels on lake Erie; now there were a hundred. The tonnage that entered Buffalo last year was 75,000; and there were more than 70,000 human beings constantly exposed to danger in the navigation of a lake, which was without a natural harbor for 200 miles.

The House adjourned without coming to any decision upon the proposed items, and on the 1st of May, when the bill was resumed in committee of the whole, Mr Wickliffe defended at length the appropriation for continuing the removal of the obstructions in the Mississippi and Ohio rivers.— Having made a few remarks expressive of his dissent from that construction of the constitution, which confined the power of the general government in the improvement of rivers to the ebb



and flow of tide water, he insisted, that if there was any subject over which its power legitimately extended, and which was free from all objections drawn from the locality of its character, it was this. Not one of the States between which these rivers flowed, possessed either the physical ability, or the right of jurisdiction necessary to the accomplishment of such a work. What State had jurisdiction of the Potomac? Who was it, that had placed buoys in that river, and still maintained them? Was it Virginia or Maryland? No. It was the general government. But all this he supposed was allowable, because these improvements were within the ebb and flow of tide water. But the moment it was proposed, to touch those great inland seas, which watered the western States, and which might well be called the Mediterranean of the west, then immediately the constitution contracted its power. To such distinctions he could never subscribe. Mr Whitlesey then went into some details of facts, going to show the difficulty and danger encountered by those, who navigate these rivers, who, possessing the finest climate and soil on earth, found their chief embarrassment to arise from the difficulty of reaching any market with their produce. There descended those rivers annually 4,000 flat bottomed boats, averaging 160 tons, and carrying cargoes amounting in value to \$4,800,000. There were besides, 220 steamboats, averaging 175 tons, and worth with their cargoes, \$15,000,000; forming an aggregate value of the

products of the country seeking a market, of upwards of \$20,000,000 per annum.

He then went into an estimate of the extent of water open to steamboat navigation in the Mississippi, and its various tributary streams, the result of which went to show, that there were 8,540 miles of such navigation in the west. Was this not an object worthy of a paltry pittance for its preservation?

Mr Whitlesey went on to show, that the annual expense of the transportation of the products of the western States to New Orleans amounted to \$7,286,000. The losses incurred were very great, amounting on the value of steamboats to 16 per cent, while the number of persons actually engaged in this work of transportation amounted to not less than 18,000. The whole appropriation, which had been made since 1824, amounted to \$405,000.—In 1826, the appropriation had been \$75,000, but owing to the want of experience, that sum had not been very judiciously applied. Since 1827, however, a better system had prevailed, commencing under the superintendence of Mr McKee, and since his death farther improved by Mr Shreeve. Mr Whitlesey then proceeded to explain the nature of the obstruction from sawyers and planters, and while on the latter subject, adverted to the melancholy loss of the steamboat Tennessee in 1821, when more property was sacrificed in one hour, than all the government had expended in the improvement of those rivers since it commenced to appropriate.



The results of the new system were highly beneficial. The snags had been principally removed from an extent of 1100 miles on those rivers. He contrasted the former condition of Plum point, exhibiting a sheet of water two miles in width, rolling with vast rapidity through a forest as thick as any which ever clothed the western valleys, with its present situation, presenting a smooth expanse, free from all obstruction, and affording a safe and easy navigation.

With a view to show, that the money appropriated had been expended to some purpose, he went into a comparative statement of the losses sustained during the five years preceding 1827, and the five years immediately following it. During the former period, the loss had been 30 boats per annum, averaging in value, \$300,000 ; besides 17 steamboats worth \$340,000, and their cargoes worth \$682,000, making the average annual loss during those years amount to \$1,362,500. — Within the latter period, the losses had been 5 flat bottomed boats, and 7 steamboats ; the whole levalued at \$381,000, making an annual difference of \$981,000. And the loss of even these steamboats was not so much owing to snags in the river, as to their own frail and decayed condition.

Another beneficial result of the improvements had been, that the flat bottomed boats were now able to run all night, which had before been impossible. The saving in the labor of hands amounted to \$24,000 annually, and the whole amount expended by the govern-

ment, while it produced such important public benefits, had been re-imbursed more than four fold in the increased proceeds of the public domain. At the mouth of Red river, 200,000 acres of land had been reclaimed, which before was worthless, and now commanded a high price, and at a place called Punch's point, treble that amount had been reclaimed, and some of it now sold at \$15 an acre.

He abstained from entering into the general topic of the policy of internal improvements, but expressed the strong hopes of the people of the west, that the administration, which they had brought into power, was not going to abandon that system. One of the principal items, which had swelled the expenditure under the present administration, had been the expenditures for internal improvement. As to the objection so strongly urged, that the system was partial in its operation, drawing money from one part of the Union to be expended in another, the adversaries of internal improvement would find that their argument when tested by facts, was not so strong as they thought it to be. For example, the whole expenditure last year for light houses, had been \$225,000, of which, 138,000 had been expended in the States opposed to this policy. So in reference to fortifications ; out of the gross sum of \$948,872, \$206,000 only had been expended in the northern States. All the rest had gone into the States, which exclaimed against the partiality of the system.

This appropriation was then agreed to, Mr Bell who objected to it stating, that his objections were chiefly to the manner, in which the previous appropriations had been expended.

The other amendments proposed by Mr Verplanck were also agreed to, and Mr Ashley then proposed an appropriation of \$50,000 for clearing out the Missouri for 300 miles above its mouth, and also to remove a shoal in the Mississippi near St Louis.

Mr Ashley addressed the House at length in support of the amendment. After advertizing to the national character of the improvement, he went into a statistical statement, showing what balance remained unexpended of appropriations heretofore made for improvements of the same character, and then stated facts to show, that the loss that had occurred of valuable steamboats at a single spot in the Mississippi, exceeded in amount the whole sum, that would be needed for the object he proposed. It had not cost 4000 dollars to remove from that place a quantity of snags, which had occasioned the loss of property worth 100,000 dollars. He then described the rapid settlement of the country on the banks of the Missouri, and the still more rapid increase of trade upon its waters. He had known seventeen steamboats to leave St Louis in one day, of which eight were bound up the Missouri and Mississippi rivers; and a merchant there had told him, that he had counted 1004 hogsheads of tobacco land-

ed at that place in one day. The goods, which had ascended the Missouri river the last season amounted to 1,000,000 dollars — part of them being destined for the Santa Fe market, and the residue for the Indians. He knew of goods to the value of 230,000 dollars, which ascended that river for the Santa Fe trade. And out of 27,000 dollars worth which he had himself purchased for two young men entering into that business, 9,000 dollars of it consisted of domestic cottons. And it struck him at the time he made the purchase, that in that one transaction, he witnessed the union of all the great interests of our country. The people of the South had raised the cotton — the people of the North had manufactured it, and the people of the West were carrying it to market. The trade was now but commencing, and there was every reason to believe, that it would increase with as much rapidity as that of any other part of our country.

With respect to the Mississippi river, there existed but one serious obstruction in its whole course, from the Balize to the Falls of St Anthony, and that consisted in the shoal opposite the mouth of Rock river and the river Moins. Here the obstruction consisted, not of snags, but of rocks exactly similar to the obstruction in the Ohio river at the grand chain, and which had so successfully been removed by Mr Shreeve. Mr Ashley spoke of the large quantity of lead produced at Galina, amounting in one year to sixteen millions of

pounds. When the water was sufficiently high to admit keel boats to pass these rapids, the freight of that lead was only 18 cents, but, at other times, it amounted to sixtytwo cents. The removal of the obstacle would produce a saving to the government in a single year of \$48,000 in the freight of lead alone.

A variety of other items having been gone through,

Mr Mercer, from the committee on internal improvements, offered an amendment proposing to appropriate for the Cumberland road, west of Zanesville, 100,000 dollars; for a bridge over the Scioto river, 10,000 dollars; for the Cumberland road in Indiana, 100,000 dollars; and in Illinois, 70,000 dollars.

On motion of Mr Wickliffe, the appropriation for the bridge was, after some discussion, stricken out, and the amendment was then agreed to, yeas 58, nays 51.

Mr Letcher moved an amendment, to appropriate 50,000 dollars for the improvement of the Cumberland river, which was rejected, as were amendments making appropriations for deepening the Potomac between Georgetown and Washington, for removing obstructions in Savannah river, Back creek, Alleghany river, Licking river, Big sandy river, for a military road in Maine, and \$328,983 for repairing the Cumberland road.

The bill was then reported to the House, and on the 5th of May, the House concurred in the amendments. When the appropriations for Ocracoke inlet was

reached, Mr Hall objected to it on the ground, that it would be a useless expenditure of money, and insisted that such was the nature of the obstructions on the coast of North Carolina, that no successful attempt could ever be made to overcome them. He attributed them to the effect of the Gulf stream, which, bearing along a quantity of loose sand, deposited it within the Sounds, and spread it irregularly, in such a manner as rendered all relief hopeless. Mr Barringer stated, that the estimated expenditure was only \$100,000, and the amount paid in lighterage for one year was \$60,000. The experiment was worth making. The amendment was adopted, yeas 110, nays 45. Amendments were then adopted appropriating \$15,000 for the improvement of the Arkansas river, and \$50,000 for the Missouri river.

Mr Ashley moved an amendment for extending the Cumberland road from Vandalia, in Illinois, to the city of Jefferson, in Missouri, and advocated the motion by a short speech. Mr Vance suggested, that no contract with particular States bound the United States to carry the road into Missouri, as it did to extend it through Ohio, Indiana, and Illinois. If the measure was gone into, it must be at the risk of the government of the United States entirely.

Mr McDuffie opposed the whole of the amendment for the Cumberland road. The whole commerce of the West would go by water by the Ohio or the



Lakes : and this road was to be made for the accommodation of members of Congress to travel to and from the seat of government, or for the local benefit of the States. He denied, that the contract with Ohio, &c, bound the government to this extension of the road, because it had been satisfied long since.

Mr Mercer replied ; denied that the road rested its claims upon its commercial character ; and insisted, that a communication between the seats of government of the several States with the seat of the general government, was a purely national object, and had an obvious claim on the legislation of Congress.

The amendment was rejected, yeas 55, nays 69.

On the 18th of May, the bill was again taken up, and the amendment appropriating \$25,000 for removing obstructions in Savannah river, being first in order, Mr Mercer observed, in support of the amendment, that the obstructions, which it was contemplated to remove from the river, were created in consequence of its being found necessary during the late war, to sink several vessels near the bar, which had been done as a defensive measure against attack from the enemy's fleet. This had caused such a great accumulation at the mouth of the river, as to lessen the depth of water at the bar, and now prevented vessels of any large size from entering into it. A survey had formerly been made by an officer of the United States, and a report thereon to the House, upon which they had

voted the sum of \$50,000, for the purpose of removing the obstructions. The persons employed in the undertaking had, however, been obliged to expend, out of that amount, \$17,000 for the purchase of a dredging machine, necessary to be used in the work for removing the obstructions. That machine now lay sunk, immersed in the water, and exposed to destruction, and the work was not yet fully accomplished.

Mr Wayne said, that there was every certainty that, if refused, there would be a loss of property to the value of the machine of \$17,000 or \$18,000. The machine was a valuable one, and the use of it had been productive of such good, that he was informed, within a month or two past, by the commissioner of pilots, that they would willingly, if so permitted, themselves go on with the work. Had the original appropriation of 50,000 dollars not been lessened by the large amount to purchase the machine, there was reason to suppose the obstructions would have been long since removed for that amount. It was now for the House to say, whether they would furnish funds to complete a work, that, if not promptly undertaken, would, in all probability, require many thousands more than was now asked ; and by the abandoning of which the government would lose the machine, that was sunk, and the State the benefit of such improvement, as had been already made in the river.

Mr Clayton was opposed to the system, that seemed now to prevail, and by which every State



in the Union was sought to be lured into an expression of approval of internal improvement, which he considered was highly detrimental to the country, and the effects of which would be severely felt by every taxpayer in the Union. The present bill exemplified the danger of establishing precedents of the kind: it had come in, originally, for only 300,000 dollars, and was now swelled out to 1,200,000. He could not, in justice to his constituents, support the system, and could take on him to say, that Georgia disclaimed it, as he, one of her representatives, felt bound to do.

The amendment was then agreed to without a division.

Mr Letcher then modified his amendment, appropriating \$50,000 for the improvement of Cumberland river, to \$30,000, and it was adopted, yeas 83, nays 78. Mr McKennan then proposed an amendment, appropriating \$328,983 for repairing Cumberland road, and for erecting toll houses and toll gates.

Mr McKennan explained at length, that the object of the present appropriation was to put the road in a state of repair, which was then given up to the States of Pennsylvania and Maryland, who had passed in their respective legislatures, acts by which they agreed to take charge of the road, and levy a toll thereon in future, so as to make the receipts of the toll pay for the repairs of the road. When he had concluded,

Mr Crawford contended at length in opposition to the principle, that this road was to be first

repaired, and then given up to the several States. It had been already a road, which had cost large sums to the Union, and there was no likelihood that applications on the subject would ever cease. He would, however, vote for a small amount to make repairs absolutely necessary; but not a large sum for the purpose of making a Macadamised road. If the blank was filled up for more than 70 or \$80,000, he would be compelled to vote against it.

Mr Davis of Massachusetts said, he thought that it was necessary to do something on the part of the government, by which they would get rid of future applications on account of the road, and that it was not reasonable to suppose the States mentioned as willing to take it into their own hands, would do so if it was in the dilapidated and unproductive state, in which it was represented to be. If this was not done, as was done when the other portion of the road was given up to the State of Ohio, they might well object; and what then must be the consequence? The road was an important communication across the Alleghany mountains, otherwise inaccessible, at the place it was situated. The government could not altogether abandon, what was pronounced to be of such importance, and which it had made by an enormous expenditure. The States could not be compelled to take the road unless upon their own terms. If they did not now make an appropriation to get rid of the road altogether, they must be every

year called on to repair it. He, however, thought, as \$150,000 was as much as could be economically expended, between this and the meeting of the next Congress, he proposed that sum to be inserted in the blank, which he trusted would be acceptable to the friends of the road, as well as to the gentleman from Pennsylvania, (Mr Crawford,) who was adverse to it.

Mr McKennan was perfectly willing to accept the suggestion of the gentleman from Massachusetts.

Mr Lecompte called for the reading of the amendment, which being complied with, he declared that he was in favor of the road, and had always voted for it; but he saw something in it about toll-gates, to which he was averse on principle, and as leading to amalgamation, which he disliked. He must therefore, although with regret, if the power was given by the bill to erect toll-gates or houses, vote against it.

Mr Arnold inquired, if the clause was stricken out, would there be any authority elsewhere to erect toll-gates on the road? If there was not, he wished there should be toll-gates, that the road might support itself; and would not vote for the amendment, if the clause was stricken out.

Mr Wickliffe warned the friends of the road, not to persist in retaining this clause. If they did, the whole object they had at heart, of repairing the road, would be defeated. He was opposed to the toll-gate system, although in a dark hour he believed,

that he had once voted for a question in which it was embraced. He now objected to this clause, not on account of the expense to be incurred by the erection of the houses or gates; but because the question of principle was involved — whether the House had the power to erect these things.

Mr McKennan, in explanation, said, that it was not contemplated that the toll-gates, or houses, should be erected by the general government; but the erection was to be done by commissioners, appointed under the acts of the Legislatures of the respective States, and he read an extract from the acts to that effect.

The question was then put, on Mr Wickliffe's amendment, and was negatived.

The question then recurring on the appropriation of \$150,000 for repairs, &c, of the road —

Mr Vinton said, that in order to obviate any difficulty which might hereafter arise on the subject of these toll-gates or other matters, he would move as an amendment to the amendment, 'that the acts of the Legislatures of Pennsylvania and Maryland, should be printed and appended to the act of this present session of Congress.'

Mr McKennan accepted this amendment, as a modification, and the question was taken on the amendment as modified, and carried in the affirmative, yeas 90, nays 72.

An appropriation for a military road in Maine, was then inserted, yeas 79, nays 49; and several other amendments were offered,

when Mr Ingersoll rose and said, that though it was not a motion he would at any time wish to make, yet he foresaw, if it was not resorted to, the whole bill would be so loaded, that it must finally break down; to avert which he called for the previous question; which being sustained, the main question was ordered.

The bill was then ordered to a third reading, yeas 102, nays 66, and the next day was passed, yeas 99, nays 75.

In the Senate the consideration of this bill was called for on the 20th of June, and opposition being made, the Senate agreed to take it up, yeas 30, nays 14.

Mr Forsyth moved, so to amend the bill as to place both the appropriations for the Cumberland road, under the superintendence of an officer of Engineers, which was agreed to.

Mr Forsyth moved to strike out the appropriation of 30,000 dollars for the improvement of the Cumberland River. He stated it to be his object to strike out all new objects, and such of the others, as had not been previously surveyed by the direction of the government.

Mr Johnston opposed the motion to strike out, and made some statements to show the extent of the commerce carried on through that river.

On the 22d of June, the subject was resumed. The question pending being on the motion of Mr Forsyth, Mr Clay said that, as the Cumberland river runs through the States of Tennessee and Kentucky, as Kentucky had received no favors of this kind

from the general government, the Maysville road appropriation having been vetoed, and as the port of Nashville was of the utmost importance, and was situated on this river, which was one of the finest streams of the west, he hoped the senate would reject the amendment. The nature of the obstruction is so well known, that a previous survey could not be necessary.

Mr Hayne asked, what was the amount of the appropriations contained in this bill? Would these appropriations be sufficient to finish the works for which they are required? What was the amount required for new works? He expressed his satisfaction, that the question was now fairly and solemnly made. He was of opinion that, if the Cumberland river, a new work not surveyed, was to be cleared by a national appropriation, every outlet and river of the Union could be cleared at the expense of the United States. After that was done, the government would be called on to make roads from one water course to another.

Mr Forsyth replied, that there were three new works embraced in this bill. There was, first: an appropriation for the Arkansas river of 15,000 dollars. There was, 2dly, the appropriation of 30,000 dollars for the Cumberland river; and the 3d was an appropriation of 20,000 dollars for repairing a road in the territory of Arkansas. He had thought there were four objects, but he had discovered that the fourth, the Savannah river, was not a new work. The appropriations,



as the bill stands, amount to 1,100,000 dollars. Some of the objects would require additional appropriations, and some additional ones to a considerable amount. He repeated, that it was his object to get a decision, that no new works should be embraced in this bill, as there was another bill into which they might be interwoven.

Mr Webster said, the proposition was to strike out the appropriation for clearing out the obstructions to the navigation of the Cumberland river. As a local object he had no knowledge of the matter. But he was not prepared to admit the principle, that no measure in which there had not been a previous appropriation, ought to be embraced in the bill; or that a work should be excluded, merely because there had been no survey. He had no objection to the appropriation, therefore, on that score. His vote would be governed by the information he should receive from those, who were best acquainted with the matter, as to the importance of the work itself. The gentleman from Tennessee could give this information. This object is connected with two States, and, if the gentlemen from these States differ as to the expediency of the appropriation, it might be a reason for further reflection. He wished to hear from Tennessee on the subject.

Mr Grundy regarded the Cumberland river, as next in importance to the Mississippi and the Ohio rivers. The Kentucky river he considered as of trifling importance in comparison with the Cumberland. The Tennes-

see river was of minor importance. So far as the national importance of the river could govern his vote, he was disposed to yield. He then stated, that the obstructions to the Cumberland river were the Dover shoals and the Muscle shoals. The latter, situated forty miles below Nashville, were the most formidable. He then took a view of the importance of Nashville as a port and a commercial depot; and stated that, if any case ought to be taken where no survey had taken place, it ought to be this.

Mr White did not exactly concur with his colleague, in his estimate of the importance of the Cumberland river. He himself considered several streams in the west as equal or superior in importance.

Mr Tyler, wished to know, where the line was to be drawn between a national and a local work? If the criterion was to be, that a river or a road ran through two States or one State; whether it was to be a river of 100 miles or 50 miles; and whether there was to be a distinction between great national and little national works;

Mr Webster expressed his sentiments, in opposition to the practice of measuring national objects by furlongs, roods and perches; and of carrying a measuring stick by the side of the streams, for which appropriations were asked. He stated, that he was once asked, why he had voted for a liberal appropriation for the harbor of Mobile. He replied by pointing to a statement of the loss of a Boston vessel, of the



value of 30,000 dollars, on the Mobile bar; and thus showing that the interest felt in this improvement was national, and not local. He insisted, that the citizens of Massachusetts were interested in every snag, which was taken out of the Mississippi, and every old tree removed from the Ohio. The state of Delaware was not so much interested in the Breakwater at the mouth of her bay, as was the State of Massachusetts; and it being a work of this national character, it was not to be expected, that Delaware, or New Jersey, or Pennsylvania, would expend the amount of its construction. He stated, that the proposition of a new and grinding tax; of a system of grievous oppression; the march of an army; the sweep of a pestilence; the approach of death; could not be spoken of with more horror, than was a proposition to open a road, or make a canal, in this House. As this was a work for the common benefit, it ought to be paid for at the common charge. Having gone so far in support of the system of internal improvement, he was not now disposed to retrace his steps.

Mr Miller moved to lay the bill on the table, which was negatived, yeas 15, nays 29.

The question was then taken on the amendment of Mr Forsyth, which was rejected, yeas 20, nays 26.

The bill was then reported to the Senate as amended, and ordered to a third reading, yeas 26, nays 13.

The bill was now returned to the House, where all the amend-

ments were agreed to, except one providing for the improvement of the Wabash river, which was disagreed to, and the Senate receding from its amendment, it passed both Houses, and having received the sanction of the President became a law. By the bill as amended in its passage, various appropriations were made for works not enumerated; it having been extended by these amendments altogether beyond its original scope, adding thus an additional sanction to the policy of internal improvement. This act contained the following appropriations viz.

For improving the navigation of the Ohio and other rivers in the interior, - -	\$138,700
For improving the harbors on the inland lakes, - -	75,600
For improving harbors on the Atlantic coast, - -	26,550
For piers and breakwaters and repairing beaches on the Atlantic coast, - -	350,890
For improving the navigation of rivers on the sea board, - -	93,750
For the Cumberland road, - -	425,868
For other roads, - -	89,500
For making surveys under act of 30th of April, 1824, - -	30,000

The other appropriations for internal improvement were contained in a bill for the improvement of certain harbors and rivers, which was not taken up in the House until the 25th of May. Certain amendments were then made in the committee of the whole, and on the 1st of June, when the question was on concurring in those amendments, Mr Polk moved to strike out the enacting clause of the bill.

Mr Polk said, his only object in proposing to strike out the first section was, to ascertain how far Congress were willing to

go at the present session in these matters. A bill to a large amount had passed the House a few days ago, of a similar character; though opposed to that bill, it was one, which had greater claims on the attention of the House than the present bill; as its appropriations were said to be necessary to prevent the loss of money formerly appropriated. The bill now before the House, since it came from the committee on internal improvements, had been swelled to a large amount by amendments proposed in the committee of the whole; the conclusion he drew from this was, that these amendments had not been submitted to the committee on internal improvements, or had not been approved of by them.

Mr Taylor said, it had sometimes happened, that sums which had been appropriated for the purposes of accomplishing certain works, had fallen short by a few thousand dollars, and that an additional appropriation was required. Numerous appropriations had been made for years past by Congress, for the purpose of ascertaining the practicability and usefulness of certain improvements in rivers and harbors. He was not one of those, who was for carrying out this system to its utmost extent; though he believed, they possessed the power to make appropriations, when they were truly and really of a national character. He had voted against those, which appeared to be local in their nature—but they ought to appropriate largely revenues arising from

commerce to facilitate commercial purposes. There was an appropriation proposed in that bill, for improving the Hudson river. He thought no one objection could be fairly made to it. A reasonable appropriation not exceeding, in the whole, \$200,000, would afford great facilities in the navigation of that river to the northern and western parts of the State of New York, and would also be beneficial to certain parts of Massachusetts, Vermont, &c. The obstructions in the river were between the city of Albany and Troy. The bill likewise contained other appropriations for improving navigation, in which great interest was felt by the northern and western parts of the State of New York. Mr Taylor next noticed the appropriation for the improvement of Sag Harbor, (Long Island,) and described it, as being in a state quite unfit for the reception of ships, owing to the accumulation of sand. He concluded by expressing his hope, that the House would not strike out the enacting clause of the bill.

Mr Duncan advocated the propriety and necessity of those improvements in the bill, which were proposed to be made on the lakes. They had been favorably reported on by the Engineer Department, and had been before the House for several previous sessions.

Mr Felder asked, if it had ever been known, that an unfavorable report had been made by the Engineer Department; or whether any member had ever been known to oppose any appropri-

tion for improvements in his own congressional district? He thought not. Mr F. deprecated the system of internal improvement, generally, as a useless squandering of the public money, and one which was calculated to endanger the safety of the Union. It was an ordinance of the Almighty, that money got by such means should do no good to those who got possession of it. All the money expended in this way hitherto, had ended in nothing but dividing the country. And he warned gentlemen to remember, that if the system went on, it went on at the hazard of the Union.

Mr Bates, of Maine, said, as this was the first bill, which had been before the House during the present session, in which himself or his constituents might be supposed to be particularly interested, he would trouble the House with a very few remarks. The first item in the bill was one of \$10,000, for the improvement of Kennebec river, on the banks of which river he resided. Believing, as he did, that the system of internal improvement was one unequal in its application, and unjust in its principle, he had uniformly voted against it; nor should he change his course in the present instance, because the present bill happened to contain an appropriation for the improvement of a river running past his house. If there was any improvement in that bill, which could confer a benefit on those portions of the community for whose sake they were made, that to which he had alluded would do so to his constituents; but the

majority of those constituents were opposed to these appropriations; they did not think that, the proper way of effecting such improvements; they were not willing, that the government should tax them for such purposes, and would rather be left to their own resources to provide for such improvements, as they thought necessary for their own district.

Mr. Craig moved to lay the bill on the table, which was lost, yeas 82, nays 101.

Mr Adams said, he hoped the House would be permitted to take the question on this bill. During the whole of the remarks which they had heard, not a single item of appropriation had been objected to, but certain, general, and severe animadversions on the system of internal improvement. He did not believe there was a single appropriation in the bill, on which any gentleman on that floor could put his finger and say it was an improper or useless one, putting aside the constitutional question. If any gentleman would do so, and would support his assertions by reasons which were reasonable, he (Mr A.) for one would vote to strike it out of the bill. In answer to a threat of a dissolution of the Union, so frequently used in that House, in place and out of place, he would say but one word. If that House should ever undertake to settle the question, that no appropriation for internal improvements should be made by them, it would break the Union into pieces; nor would it, under such circumstances, be worth preserving or living under.



Mr McDuffie moved to postpone till Monday next, which was lost, yeas 86, nays 101.

The question was then taken on the motion to strike out the enacting clause, and decided in the negative; yeas 72, nays 101.

The amendments of the committee were then concurred in.

The question then recurred on the engrossment of the bill; on which there appeared, yeas 102, nays 73.

The next day a motion was made to postpone the further consideration of the bill until the 14th of June, which was at first carried, yeas 86, nays 83; but on a motion by Mr Carr for reconsideration, the House reconsidered, ayes 92, nays 73; and the previous question being ordered, the bill was passed, yeas 95, nays 67.

In the Senate, the same system of procrastination was attempted; but on the 3d of July, the bill was taken into consideration, yeas 27, nays 13.

Mr Forsyth then moved to strike out the enacting clause, which was negatived, yeas 13, nays 30.

Several amendments were then made to the bill, and the amendments having been gone through with, the bill was reported to the Senate; when

Mr Miller moved to amend the bill by striking out all after the enacting clause, and inserting a substitute appropriating \$600,000 (about the amount of the appropriations in the bill) for internal improvements, to be expended under the direction of the War Department, in the several States,

in proportion to their population, and on subjects designated by the States.

Mr Miller said, his object in offering the amendment was to present an alternative or substitute for the bill less objectionable. There was no rule, no principle in the bill; it was an invasion of the treasury without any regard to justice or equality. For the first time to-day we have learnt, that the various branches of the government concur in the power or expediency of carrying on appropriations for objects of internal improvement. We have just heard, that the President has signed the internal improvement bill, containing appropriations for the most limited and local purposes. I hope we shall never again be referred to the veto of the Maysville and Rockville roads, as a security against this system. The Senate and House of Representatives, and the President, all concur in this power. I have offered this amendment to furnish to my constituents, the evidence of the disposition of the government to administer its taxing and disbursing powers on equal and just principles. No one will deny, that South Carolina pays her portion of funds into the treasury; and she has not received one dollar for internal improvement. Although the planting States may pay much more than their portion of the taxes, the amendment would operate to limit these appropriations by making those, who receive the appropriations pay some of the burthens.

Mr M. said he did not stand



pledged to vote for this amendment, if adopted as a substitute, but he preferred it to the original bill. It will give the people some insight into the principle, upon which their money is drawn from them. How can gentlemen support this system without extending to every section a portion of its benefits?

Mr Clay thought the proposition of the Senator from South Carolina entitled to serious consideration. He regretted, that it had been made at so late a period of the session, as to preclude that examination and reflection, which the importance of the subject deserved. He thought, however, that the principle of distribution should depend as well on the extent and exigencies of the States, as on federal numbers.

His object, however, in rising, was to express his extreme surprise, that the President, after putting his veto on the appropriations for works of such public utility as the Maysville and Rockville roads, should have sanctioned the internal improvement bill, in which appropriations were made to a very large amount, and which differed in principle not one particle from the one he had rejected. If the Maysville and Rockville roads were local objects, there were hundreds of objects in the bill just approved, infinitely more local. What had been the course of the present administration? They first held appropriations for certain objects of internal improvement to be unconstitutional, and then sanctioned appropriations for other objects depending entirely on the

same principles with those held to be unconstitutional; and the result has been, to open an entire new field of internal improvement.

Favorite objects, Mr C. said, had been considered constitutional, while objects in States not so much cherished, had been held to be local. Mr C. concluded by saying, that he thought with the Senator from South Carolina, that there ought to be some principle of distribution for internal improvement settled for the future. He regretted, that it was too late now in the session to mature any satisfactory plan, but he hoped, that at the next session the subject would be taken up, and some principle recognised that would do equal justice to all the States of the Union.

Mr Smith gave a history of the commencement and progress of appropriations for the improvement of harbors. The doctrine held was this: The States on the Atlantic had relinquished to the federal government the right of imposing tonnage duties, thus depriving themselves of all power of improving their harbors and rivers. It was the bounden duty, therefore, of the General Government to do that, which the States could not do of themselves, because they had given up the funds, from which they could make such improvements.

Mr Hayne rose, not for the purpose of entering into any argument on the question before the Senate; but to say, that although he should vote for this amendment of his colleague, as an alternative preferable to the bill, he was utterly opposed to

the whole scheme, and should ultimately vote against the bill, He viewed the amendment merely as an alternative to the bill, and of the two he thought it preferable; but the system itself was a general scramble, and there was no knowing where it would end; it was wild and extravagant, and the sooner it was abandoned the better. The bill signed by the President appropriated one million one hundred thousand dollars, and this bill appropriated about six hundred thousand dollars more.

Mr Mangum said, he was unwilling to countenance a proposition of the nature submitted by the Senator from South Carolina, in any shape. He was opposed to any distribution among the States of any kind according to federal numbers, because he believed, as did the gentleman on the opposite side, that those States who received the least would pay the most. Although he knew he could, according to the parliamentary practice, vote for the amendment, and finally against the bill, yet he was unwilling, that his vote should meet the public eye as sanctioning anything like the scheme either in the bill or the amendment.

The question was then taken, and Mr Miller's amendment was rejected, yeas 8, nays 33.

The bill was then ordered to a third reading, yeas 25, nays 16.

The bill was then passed, and

sent to the House for concurrence in the amendments.

The House concurred in these amendments, after making an unimportant amendment, to which the Senate assented; and the bill was sent to the President for his approbation on the 13th of July, three days before the close of the session.

This bill, which did not differ in principle from the internal improvement bill, the President resolved not to sanction; but finding the task of assigning any reasons for a direct veto difficult, he retained the bill until after the adjournment of Congress, and thus prevented it from becoming a law.

The same course was adopted, in relation to a bill providing for the repayment to the respective States of all interest actually paid, for moneys borrowed by them on account of the federal government, and expended in the service of the United States. This bill, which only sanctioned one of the plainest maxims of natural justice, was passed by both Houses; but when it came into the hands of the President, it was doomed to the fate of the harbor bill, and was negatived in this indirect manner, without any reasons submitted to Congress for this novel and unconstitutional mode, of defeating the action of the legislative branch of the government.

## CHAPTER IX.

### CONTINENTAL EUROPE.

*France — State of Parties. — Remodelling of the Chamber of Peers — Banishment of the Bourbons — Condition of the Working Classes — Riots at Lyons — Civil List — Anniversary of the death of Louis XVI — Prosecutions of the Peers — Conspiracies — The Cholera — Death of Casimir Périer — Funeral of Lamarque and Riots of June — La Vendée — The Duchess of Berri — The Chambers — Landing at Ancona — Belgian Negotiations — Reduction of the Citadel of Antwerp. — Germany — Hanover — Meeting at Hambach — The Diet. — Greece. — Sovereignty of Otho. — Russia. — Fate of Poland. — Turkey. — Conquest of Syria by Ibrahim Pacha. — Spain — Sickness of the King and its Consequences. — Portugal — Don Pedro's Preparations — Occupation of Oporto — Military Operations.*

CONTINENTAL EUROPE, during the year 1832, was not the theatre of great and stirring events, such as fixed the attention of the world in the two preceding years. France, Belgium, Portugal, and Turkey, offer points of interest, however, and some few incidents in other parts of the Continent require to be touched upon briefly, in order to give a complete idea of the European history of the period.

We left the history of France at a moment, when the policy of the government was somewhat unsettled, by reason of the uncertainty whether M. Casimir Périer would continue at the head of the ministry, supported

by the friends of the new dynasty and the enemies of any further extension of the principles of the Three Days. The President of the Council had rather precipitately resolved to retire, upon view of the small majority of the Deputies in favor of M. Girod de l'Ain, the ministerial candidate for the presiding office in the Chamber. But, having continued in authority in obedience to the public necessity imposed upon him by the breaking out of hostilities in Belgium, M. Périer soon found, on coming to discuss the address in answer to the king's speech, that his purpose of surrendering the helm of state to the move-

ment-party was altogether premature and uncalled for, inasmuch as the vote upon this subject showed the general policy of the Ministers to be possessed of overwhelming strength in the Chambers. And the struggle, at this time, was quite decisive of the permanency of the existing cabinet. M. Périer, and his associates of the administration, made up a distinct issue with the Opposition upon the great questions of domestic and foreign politics, which then occupied the attention of the French. The Ministers averred that the Charter of 1830 was the record of their political creed. They stood ready to carry the principles of liberalism to the utmost verge of that instrument, but there they were determined to stop. It was for the Chambers, for France, to say, whether the nation demanded, or could sustain the shock of a new series of revolutionary agitations; or whether, content with a faithful and firm but liberal administration of the government, in accordance with the provisions of that Charter, tranquillity should be given to the people, and with it prosperity to the country. The vote of the Chambers upon the address rendered it certain that the party of moderation, of resistance to change, of peace abroad and stability at home, was thenceforth, for a time at least, to control the destinies of France.

This matter being thus determined, the ministers proceeded to evince their disposition to concede everything to the popular party, which the Charter of 1830 had

contemplated. In settling the constitutional changes of that epoch, as in transferring the crown to its present possessor, the Chamber of Deputies, as the immediate representatives of the people, had proceeded with little deference for the Chamber of Peers. Indeed, the Peers, it was then apparent, had no substantive power, and were under the necessity of following in the wake of the Deputies, whithersoever the latter might choose to lead. They had submitted with murmuring, but unresisting acquiescence, to the *unpeering* of the peers created by Charles X. They had accepted the *Charte Bérard*, notwithstanding the provision it contained, that the constitution of the peerage should be revised at a future meeting of the Chambers. The time was now arrived to complete the unfinished work of the Three Days, and meet the requisitions of the country by re-modelling the Chamber of Peers. It was a task which the ministers undertook from no good will of their own, but rather because they felt it to be impossible safely to refuse themselves to it, and because it was due to their consistency as the professed maintainers of the principles of the Charter, — of no more and of no less, — of movement so far as this carried them, and of unshaken constancy of station at that point.

In introducing the measure to the Chamber of Deputies, M. Périer confessed the indisposition of the ministers, acting upon their own personal convictions, to make any essential change in the constitution of the Chamber of Peers.



But the hereditary quality of the peerage was odious to the nation, which demanded its abolition with great unanimity. It was the condition, also, on which the popular party, as represented by Lafayette and his friends, had agreed to the *Charte Bérard*. — Good faith towards their party, not less than the voice of the country, required that the ministers should now act on the subject, and set the question at rest, so that thus the government of July might be finally and fully organized. Reluctantly and doubtfully, however, as the ministers gave in to the abasement of the peerage, no such scruples were entertained by the great body of the Deputies, who were in fact pledged to their constituents to carry through the measure. The *projet* of law, as it passed the Chamber of Deputies, enacted that the peerage should cease to be hereditary, leaving to the crown the right of nominating future peers, limiting the right, however, to be exercised only in certain 'categories' or descriptions of persons. These categories embraced all the great public functionaries, political, military, or judicial, — proprietors and heads of manufacturing, commercial, or banking houses, who paid a direct tax of 3,000 francs per annum, — members of the four academies of the Institute, — and citizens to whom a national reward should have been specially awarded by law, on account of eminent public services. The hereditary quality of the peerage was abolished by a vote of 324 against 86, which made all opposition to the measure on the part

of the Chamber of Peers of no avail, by enabling the ministers to adopt, with safety, the strong measure of creating 36 new peers for the express purpose of carrying the law through the upper Chamber. By this means the *projet* became a law. Various attempts had been made in the Chamber of Deputies to engraft the elective principle upon the peerage, and to provide for the periodical renewal of the members of the Chamber of Peers, in a manner analogous to the organization of the Senate of the United States. But the ministers, and the majority of the Chambers, sustained the principle of royal nomination, as more congenial with a monarchical constitution than the principle of election. — Indeed, the abolition of the hereditary descent of the peerage, added to that of the rights of primogeniture in the descent of property, enacted under the Restoration, left to the people little cause of apprehension from any undue preponderance of the aristocracy in the government of France.

Another important measure of the same session was passed with the acquiescence, rather than the cordial approbation, of the ministers, namely, a law for the perpetual banishment of the elder branch of the house of Bourbon, and their descendants, as also the family of Bonaparte. As to the latter, there was no cause of serious apprehension, except so far as regarded the Duc de Reichstadt; and his untimely death removed, in a great measure, the jealousy of the government of Louis Philippe respecting the popularity of

the name of Napoleon. But the occurrence of disturbances in La Vendee, and the apprehended project of the Duchess de Berri in behalf of her son, placed the provision, touching the family of Charles X, upon grounds of permanent expediency, if not necessity.

Meanwhile, however, the distressed situation of the working classes in Paris, and in the departments, became a matter of pressing importance. The industry of the country had, of course, suffered greatly by the agitations of the last fifteen months, consequent upon the Revolution of July. To this cause might be ascribed many of the occasional mob-assemblies in Paris, which so often called for the interposition of military force. Or rather, the interruption, or curtailment, of the usual operations of trade and manufactures dependent on capital and credit, had served to throw out of employment multitudes of men, who were susceptible of political influences eminently prejudicial to the public peace. To aid the manufacturers, and furnish employment for the people, the chambers voted the sum of 18,000,000 of francs, as a temporary measure of relief. But the evil was too extensive to be cured by such means. In Lyons, it produced an insurrection among the silk weavers of the most serious and dangerous description.

Subsequently to the Three Days, the silk manufacturers found themselves driven to the alternative either of suspending their works, or of reducing the wages of their workmen. To

suspend their works entirely, would have been absolute ruin to the industrious classes; to reduce the wages of the workmen would occasion much distress, but infinitely less than the adoption of the other alternative. Of course, it was resolved by the manufacturers to make the contemplated reduction. But the workmen, ignorant of their own interests, undertook to prevent the reduction by force. They formed combinations, agreeing upon a tariff of wages, and demanding that the municipal authorities should sanction and enforce the rates they proposed; and the Prefect yielded to this demand. The 1st of November had been fixed as the time for putting the new tariff into operation; but when it came, the manufacturers refused to comply with it, and a *strike* was the consequence, which threw thousands of workmen out of employment. Unable to bear this state of things long, on the 20th the starving workmen prepared to take the law into their own hands, and to compel the manufacturers and the public authorities to give them work at the rates they demanded. On the morning of the 21st, the inhabitants of the suburb of Croix Rousse, consisting chiefly of a laboring population, rose in arms, — fortified the high grounds upon which that suburb is situated, — and made demonstrations of a design to attack the city. Hereupon the troops stationed in the city, and a portion of the National Guards, were called out for the defence of the city; and hostilities commenced, between

the workmen on the one hand, and the troops aided by the better class of citizens on the other, in which many lives were lost. But the workmen of a suburb on the opposite side of the city, now rose in emulation of their brethren of Croix Rousse, and partly by superiority of numbers, partly by the want of energy or concert among the military and civil authorities, the insurgents gained possession of the Hotel de Ville, and finally of the whole of Lyons, the military withdrawing themselves, and leaving the rioters in quiet control of this the second city in the Kingdom.

When intelligence of these events reached Paris, it naturally excited the deepest anxiety, because the government apprehended the existence of political disaffection, as lying at the bottom of such a formidable insurrection. Marshal Soult, Minister of War, and the Duke of Orleans, were instantly despatched to Lyons, invested with the most ample powers for reducing the rioters to obedience, and restoring the reign of legal authority. The Marshal lost no time in concentrating a large body of troops around the city, so large that the insurgents abandoned the very idea of resistance, and quietly submitted to their fate. Indeed, they disclaimed, in the strongest terms, all connection with any political party or purpose, declaring their entire devotion to the constitutional charter, and the government of Louis Philippe. On the 3d of December, the Minister entered Lyons, at the head of 26,000 men; abolished the com-

pulsory tariff, disbanded those portions of the National Guards which had failed to do their duty effectually, and ensured the continuance of tranquillity by posting a powerful garrison in the city to curb its turbulent population.

This apparently formidable insurrection having thus passed off without shaking the stability of the government, and rather, on the whole, adding to its influence and authority, the Ministers felt strong enough to enter upon the discussion of the civil list, or domains and revenue of the crown, in connection with the regular financial measures of the year. At the very opening of the debate, however, a curious scene occurred in the Chamber of Deputies, in consequence of the word "subjects" having been incidentally used by M. Montalivet, Minister of the Interior. So soon as the word fell from his lips, the republican party in the Chamber rose *en masse*, demanding, in all the excitable vivacity of temperament which distinguishes the French in their legislative proceedings, that the expression should either be retracted or explained. Infinite uproar and confusion put an end for a while to the business of the sitting; and similar disorder occurred the next day. At length, however, the order of the day was voted by a large majority; and the minority contented themselves, perforce, with protesting against the unlucky word, as implying a state of political subjection to an individual which they did not recognise, and which they deemed incompatible with the



principles of the Revolution of July. On this occasion the republican party seem not to have considered sufficiently that the word itself was of no consequence, unless it justly applied to the relation between king and people, established by the Charter. And as to this point, they were concluded by the occurrence of that very form of expression — ‘faithful subjects’ — in the address made by the Chamber of 1830, on tendering the crown to Louis Philippe.

In determining the estate and revenue to be settled on the King, three particulars were to be considered, namely, the future destination of the private property possessed by him on coming to the throne, the amount of money to be granted him annually, and the disposal of the royal domain heretofore held by the crown. It was at length arranged that the private estate belonging to a king, on coming to the throne, or which he might acquire during his reign, should continue to be his; that the sum of twelve millions of francs per annum should be paid him from the treasury; and most of the royal *châteaux* and estates should remain parcel of the domains of the crown, as provided by former laws.

Next in political interest to this topic of debate, came that of a law for abolishing the solemnities, observed ever since the Restoration, on the 21st of January, the anniversary of the execution of Louis XVI. The law had passed the Chamber of Deputies in December, 1831; but the Chamber of Peers kept it

in suspense until after the anniversary, and then sent it back with amendments, in which the other Chamber refused to concur. Crimination and recrimination were liberally exchanged between the opposing parties on this occasion, the Peers accusing the Deputies of regicide and ultra-republican propensities and opinions, and the Deputies holding up the Peers as the persevering enemies of the Charter and its principles, and incurably infected with the emigrant prejudices of the Restoration.

Out of the Chambers, the early part of the year 1832 was marked by the numerous prosecutions against editors and others, for seditious publications, or for participation in alleged conspiracies to overthrow the government. Certain it is, that the newspaper press of Paris, at this period, was preëminently distinguished for the violence and mendacity, which corrupt party motives are so apt to infuse into the columns of political journals. Two divisions of the press conspired to do everything in their power to bring contempt upon the government, and to excite disaffection among the people. One consisted of the journals in the interest of the exiled Bourbons, and the party of Charles X. and his family, which assailed the government of Louis Philippe because it was revolutionary, and the creature of popular change, in derogation of the rights of legitimacy. Another class of journals denounced it with equal fury, as not sufficiently revolutionary. They concurred in the means, although at oppo-



site points of opinion respecting the end. While one party would have overturned the throne of July, in order that the young pretender, Henry V, might exercise the rights of sovereignty devolved upon him by the abdication of Charles X and the renunciation of the Dauphin, — the other would have swept away the new dynasty, either to proclaim the son of Napoleon or to establish a pure republic. However richly the editors in the interests of either of these parties may have deserved punishment, for their innumerable libels on the government, its head, and its ministerial members, the prosecutions generally failed, owing either to the sympathy of the jury with the feelings of the accused, or the intimidation of the jurors, by the violence of their friends and fellow partisans.

As in the outrages uttered by the press, so in the plots against the government, the Carlists and the republicans appeared together in a kind of association of guilt and crime, strangely in contradiction to the hostility, where-with the regicides, republicans, and Bonapartists of the one side, and the Jesuits, emigrants, and extravagant Bourbonists of the other, could not fail to regard each other, except when stimulated by their common hostility to the government of Louis Philippe. The conspirators were trained on by the police, which possessed the knowledge of their meetings and plans, until the 1st of February, when a considerable number of them were apprehended in different parts of the city,

and their schemes were for the present defeated. A commotion occurred soon afterwards at Grenoble, which occasioned some alarm; and the situation of La Vendée grew every day more and more unsettled; for in that region the adherents of Henry V began to collect in armed bands, plundering the collectors and agents of the treasury, issuing proclamations, and striving to rouse the inhabitants to civil war. On the face of things, it would have seemed that so many elements of confusion must have destroyed the power of Louis Philippe, yet green, immature, and unsettled; but they proved the means of consolidating his throne more securely than a long period of public tranquillity could have done it.

Prior to the time when the public troubles reached their climax, the cholera morbus broke out in Paris, and by its fatal ravages checked for the moment the progress of insurrection. Unlike the operation of it in other countries, here the deadly pestilence was not confined to the dissolute or intemperate, or the needy inhabitants of the squalid abodes of extreme poverty. So many of the prominent individuals of society fell victims to the disease, that the sittings of the Chambers were of necessity brought to a close, the members being unwilling to remain exposed to the infectious influences of the atmosphere of Paris. And the president of the council, M. Périer, having been attacked by the cholera, as well as M. d'Argout, Minister of the Interior, the govern-

ment itself partook of the universal derangement occasioned by the frightful progress of pestilence and death. On the 16th of May M. P  rier died, and M. Girod having received the portfolio of Public Instruction, some attempts were then made to re  rganize the cabinet, but without accomplishing the object. The Opposition availed themselves of the crisis to put forth an elaborate address to their constituents, denouncing the Administration as false to the principles of the Three Days. It was evident that the critical period of Louis Philippe's government was now at hand.

Men who had taken part in the achievements of the Three Days, who knew from personal experience how easy it was for the raw volunteers of mob soldiery to hold the city of Paris against the best troops of the Kingdom, were slow to reconcile themselves to the regulated obedience required under a regal government. They acquired, on that occasion, exaggerated notions of their political consequence, as well as of their physical capacity. They began to imagine that every act of the government, however constitutional, which did not quadrate with their political opinion, was ample cause to justify them in taking arms, and forcing the public authorities into compliance with their arbitrary wills. Thus it had been on the trial of the ex-ministers, when Paris was converted into one vast camp, in order to secure a fair investigation of each case, and to preserve the accused from popular outrage. Thus it had been, although in a less degree,

upon several other occasions. — Such a state of things was, of course, injurious to the best interests of the country, being the spirit of anarchy, not liberty; and it speedily brought upon itself the punishment it deserved.

In Paris, the funeral obsequies of eminent individuals are conducted with great pomp; and it is customary to pronounce discourses over the deceased, either at the grave, or in some other place open to the access of the multitude. When the deceased is a prominent politician, his burial naturally calls forth the sympathies of his party friends and followers, as happened at the deaths of Manuel and Foy. The death of general Lamarque, who, as a distinguished soldier of the Empire, and as an opposition debater in the Chamber, was now at the pinnacle of popularity, gave occasion to a desperate and sanguinary struggle between the government and the people. Lamarque had desired to be buried in his native town of Saint Sever. — It was arranged that the procession should start from his residence in the Rue Saint Honor   on the morning of the 5th of June, and proceed by the Place de la Bastille across the bridge of Austerlitz on the way to Saint Sever. — Upon the bridge a chapel was constructed; and at this point, when the body quitted the city, the several speakers were to deliver their eulogies on the dead. An immense crowd followed the corpse, escorted by a military guard. On arriving at the Rue de la Paix, the people insisted upon leaving the prescribed route

of the procession, in order to enter the Place Vendôme, and salute the triumphal column raised there as the trophy of so many battles in which Lamarque had carved his way to glory. Here a slight collision occurred between the people and the public authorities, in consequence of the hesitancy of the officers at the hotel of the *Etat Major* of the garrison of Paris, in the Place Vendôme, to turn out the troops at the post and salute the procession, they having received no orders on the subject, as the procession was not expected to march in that direction. After this, the procession went on to the Place de la Bastille, where the most inflammatory addresses were pronounced by prominent individuals of the opposition. By this time, the feelings of the populace were excited to the highest pitch of exaltation. *La Fayette*, anticipating that serious disorders were likely to ensue, advised and entreated the people to disperse; but instead of hearkening to his expostulations, they hurried him away from the scene, as if to free themselves from the admonition of his presence; and then insisted upon going with the body of Lamarque to the Pantheon, displaying red flags with the inscription 'liberty or death.' These indications of a determined purpose of riot, as disgraceful in reference to the occasion, as it was otherwise frantic and foolish, could no longer be mistaken. The public agents interfered successfully to prevent the body being carried to the Pantheon, and to have it con-

ducted out of the city towards Saint Sever.

Both sides then prepared for combat,—the government, as was its duty, to preserve public order, the mob in the hope of producing a revolution, and overturning the government, which they themselves had so recently constituted. The troops easily expelled the multitude from the open squares, and the larger avenues in which they were assembled in dense crowds, by resolutely charging upon the latter, and sweeping them along in despite of all their efforts to maintain their ground; but on the other hand, the people began to throw up barricades in the more defensible streets, to disarm the detached military posts in different parts of the city, and to rally under leaders of their own, or students of the public schools. All at once Paris now became the scene of a desperate military contest, nowise inferior in bloodshed to that of the Three Days. But circumstances had entirely changed. The government was well and courageously supported by the troops and the National Guards; and after five hours of determined fighting, the mob were beaten at all points, and the government remained peaceable masters of the city.

The King was at Saint Cloud on the 5th, but hastened to Paris on receiving information of the disturbances in the city, and contributed by the presence of himself and family to sustain the Ministers and the soldiery, and to encourage the loyal part of the population. He rode through the



city, showing himself fearlessly at all points, and entering with spirit and vigor into the measures adopted for restoring tranquillity. Had Charles X. and the Dauphin done the same in July, and had Marshal Marmont and the Prince de Polignac displayed on that occasion the same resolution and activity, which characterized the ministers of Louis Philippe on the 5th and 6th of June, it may be doubted whether the Duke of Orleans would have ascended the throne of France. The government followed up their success with fearless vigor. On the morning of the 7th appeared an ordinance declaring Paris to be in a state of siege, and handing over the instigators of the bloody scenes of the preceding days to trial by martial law. The Polytechnic School and the Veterinary School of Alfort were temporarily closed, and those of the students, who had taken part in the insurrection, were expelled. The press had its due share of restraint, and justly too, in consideration of the extraordinary license it had assumed to itself in the propagation of seditious and factious falsehood. In short, the strong arm of irresistible power was stretched over the devoted population of Paris.

Well was it for the government to exhibit so much of resolution in this perilous emergency, at the hazard even of losing its ascendancy in the Chambers. Nothing else could have rescued the country from hopeless anarchy. Courts-martial were detailed forthwith, and proceeded to the trial of some of the rioters, sev-

eral of whom were convicted and sentenced, some capitally, others to various terms of imprisonment. Meanwhile the accused, denying the legality of the ordinance which declared the city in a state of siege, and of course disavowing the jurisdiction of the courts organised under it, appealed from their sentences to the Court of Cassation, the supreme tribunal of the Kingdom, which decided, on the 29th of June, that the ordinance was not justified by the Charter. Frankly retracing their steps, the Ministers issued an ordinance the next day, raising the siege, and restoring the regular administration of justice. The measure, however, had exercised a salutary influence in Paris, and the Ministers retained their places, regardless of the threats of impeachment, and the torrents of obloquy, poured out upon them by the parties of the Opposition. In October, the cabinet arrangements were completed, without the introduction of any such individuals as would render necessary a change in the course of its public policy. Negotiations had been entered into with M. Dupin, for giving him a portfolio, but they failed, owing, it was alleged, to his demanding to be made President of the Council. This responsible office was bestowed on the Duc de Dalmatie, who still retained the War Department. General Sebastiani retiring from the foreign department, in consequence of ill health, was succeeded by the Duc de Broglie. M. Humann became Minister of Finance, M. Thiers of Public Instruction, and



M. M. Montalivet, Barthe, and De Rigny remained in their respective departments of the Interior, Justice, and the Marine. In connexion with these arrangements, fifty-nine new peers were created. - At the same time, Marshal Soult addressed a circular to the Prefects of Departments, making known the principles of government professed by the administration.

Pending these events in the capital, the Duchess of Berri had landed in France, involved the Departments of the West in civil war, run her short career of adventure, and fallen into the hands of the government, to be shut up in the castle of Blaye, where the discovery of her criminal weakness covered the cause of the Carlists with ridicule and opprobrium, and thus did more for the security of Louis Philippe, than could have been effected by the most brilliant victories in La Vendée. So early as the month of April, the Duchess was known to be preparing to set sail from Italy, for the purpose of raising the white standard in France. On the 29th, the public authorities at Marseilles learned that the Duchess was expected the next day, and that the Carlists were prepared to take arms the moment she landed. In fact, on the 30th, the Carlists took arms, and assembled to the number of two or three thousand men, to receive the Duchess; but she did not arrive; and the insurrection was quelled without difficulty by the joint efforts of the civil and military authorities. This premature explosion increased the vig-

ilance of the government. In fact, the Duchess, accompanied by Marshal Bourmont, landed soon afterwards in the bay of Ciotat, between Marseilles and Toulon, and made her way in safety to La Vendée. She was conveyed from Italy in a Sardinian steamboat, called the Carlo Alberto, which was captured by a government cruiser, when it was too late, although M. M. de Saint Priest, De Kergolay, and others of her suite, including a *femme de chambre* who was mistaken for her, were still on board and were made prisoners. When it was at length ascertained that the Duchess was in La Vendée, the government spared no pains to detect her retreat, and to suppress the scattered movements of the Vendéens.

The rational friends of the Bourbons, especially in Paris, saw that the enterprise of the Duchess was utterly hopeless, the government being strong enough against the Carlists, whatever cause of apprehension it might have as regarded the Republicans. What could the ultra royalists of La Vendée accomplish, without arms or munitions of war, without pecuniary resource, without any chance of aid from abroad? To raise the standard of rebellion was to expose every prominent personage to sure destruction. On the 3d of June, the departments of Maine and Loire, La Vendée, Loire Inférieure, and Deux Sèvres had been placed under martial law, while the Duchess carried on a warfare of proclamations and skirmishes in the re-

cesses of the Bocage, with no earthly prospect of success. Indeed, she acted contrary to the express remonstrances of the trusted counsellors of her house. In their behalf, M. Berryer, one of the most ancient among them, left Paris, and had an interview with the Duchess in the vicinity of Nantes, at great personal hazard, in order to dissuade the Duchess from remaining in France. He was arrested in consequence of the interview and brought to trial; but the manifest honesty of his intentions procured his acquittal. M. M. the Duc de Fitzjames, Hyde de Neuville, and De Chateaubriand were also arrested on suspicion of acting in concert with her, but soon discharged. Finally, by the faithless measures of a German Jew in her confidence, the Duchess was betrayed to the government in November, while concealed in the dwelling of a lady of her party at Nantes. Being conducted thence to the strong castle of Blaye on the banks of the Garonne, there she remained, a subject of vexation and solicitude to the government, undetermined what course ultimately to pursue in reference to her, until she was forced, by the progress of pregnancy, to declare that she had been secretly married to a Neapolitan gentleman, the Count Lucchesi Palli, if indeed the marriage were not simulated to save her from greater shame. This incident deprived her of all power to be mischievous, by seducing her from the romantic elevation of an exiled princess, sacrificing everything to vindicate

her rights and her honor, to the pitiable condition of a weak, if not a wanton woman, glad to escape from France on any terms, and hide her head in her congenial Naples or Sicily.

The moment of the suppression of the insurrection in La Vendée was a fortunate occasion for the Ministers to meet the Chambers, which assembled on the 19th of November. Whatever fears the members of the cabinet might have entertained as to their reception in the Chambers, after the highhanded measures they had adopted in the riots of June, they found that the result was to fix them securely in office. Now, as the year before, the great majority of the Deputies were decidedly averse to any further experiments at present with revolutions. Recent events had served to confirm the opinions entertained by them at the preceding session, and they were disposed to overlook the questionable part of the measures of June, in consideration of the magnitude of the danger, and the successful action of the Ministers. As the King proceeded across the Pont Royal to open the session in person, some one discharged a pistol at him from amid the crowd. — Whether this were the abortive attempt of an assassin, or a piece of stage effect, got up by the police to awaken loyal feeling, did not distinctly appear. Certain it is, however, that in the election of its officers and its votes upon the address, the chambers resolutely supported the Ministers. — M Dupin was elected President of the Chamber by a majority of

nearly two to one, over his competitor, M Lafitte, the opposition candidate. And thus the year 1832 ended, with the moderate party in full possession of power, triumphant alike over faction in Paris, and civil war in the Departments.

Apart from the domestic incidents which we have described, there is nothing of interest in the foreign policy of the country, except the landing of a small body of troops at Ancona in the Roman States, as a kind of check on the movements of the Austrians in that quarter, and the reduction by force of the citadel of Antwerp. The first may be dismissed in a few words; the other will require more full explanation.

In February, 1831, an insurrection broke out in Modena, Reggio, and Parma, and in a portion of the States of the Church called the Legations, of which Bologna is the principal city. The insurgents expelled the Duke of Modena and the Duchess of Parma from their capitals, and deprived the papal agents of their authority in Bologna, Ancona, and elsewhere in the Exarchate. But ere the insurrection had ripened into revolution, the Austrians marched from Lombardy into the insurgent cities, and reinstated the former authorities by force of arms, the half armed and half organized patriots being wholly incapable of withstanding the disciplined multitudes of the invader. After effectually putting down, as they supposed, the infant revolution, the Austrians retired. But troubles again occurred in the Papal States, which induced the

Austrians to retake possession of Bologna in 1832. During the disturbances of 1831, much negotiation was had between France and Austria, as to the propriety of the interference in Italian affairs contemplated by the latter, which the liberal party in France denounced as tantamount to a declaration of war against the Revolution of the Three Days. — Still Austria held on her course, in despite of the remonstrances of the French. But when the Austrians repeated the same thing in 1832, the French could no longer submit to see them exercising unlimited control over all Italy. Accordingly, a small body of French troops being sent around by water, took possession of the citadel of Ancona, notwithstanding the opposition and remonstrances of the Pope. The French government seemed to have taken this step as the assertion of a principle, that they had as good right of interposition as the Austrians, rather than as a belligerent measure, or with a view of immediately taking an active part in the affairs of Romagna.

Not so, in respect of the Netherlands. After the cessation of the hostilities, commenced by the King of Holland in August of 1831, the allies felt that the period for temporizing and persuading was now passed, and they proceeded to *prescribe* the conditions of a definitive treaty, by the protocol of October, 1831, in number 49, — for to such a degree had the negotiation been protracted.

This convention consisted of



24 articles, applicable to all the great questions of difference between Belgium and Holland. — Instead of assigning to each country the identical line of ancient boundary, it gave to the King of Holland part of Limbourg as an indemnity for a part of Luxembourg, conceded to the demands of the Belgians. Each country was made responsible for its own debt, as it existed anterior to the Union, and Belgium was charged with one half of the debt contracted since, together with a yearly payment of 600,000 florins in consideration of commercial advantages exacted of Holland. — Communication by land and water between the two countries was adjusted on terms of reciprocity and equality, in conformity with the principles of European law on this point, established by the Congress of Vienna. Antwerp was to continue solely a port of commerce, as had been determined in 1814, and the Powers guaranteed the perpetual neutrality of Belgium. On the 15th of November the plenipotentiaries of the five Powers and of Belgium signed the treaty, and it was ratified by the governments of Great Britain, France, and Belgium, on the 31st of January, 1832. Austria, Prussia, and Russia delayed the ratification of the treaty so long as to create much doubt of the fairness of their intentions; but finally, on the 18th of April, came the ratification of Austria and Prussia, and on the 10th of May that of Russia. The Dutch, however, continued to negotiate, evade, and shuffle, until the proceedings of the Con-

ference, so long protracted and so ineffective, had come to be a by-word in all Europe. The allies had temporized so much, that men could hardly believe they were in earnest; and it remained to be seen, whether their decision of October, 1831, which they had pronounced to be fixed and final, was only *brutum fulmen*, or the umpirage of powers who meant what they spoke, and did not threaten without reflection upon consequences.

Meantime, the marriage of Leopold with the Princess Louise of Orleans, solemnized at the royal château of Compiègne on the 9th of August, 1832, served to add the ties of domestic connexion to the strong considerations of the public interest, which previously united France and Belgium.

Weary at last of the unsettled state, in which the Belgian question kept the affairs of western Europe, Great Britain and France resolved to bring matters to a crisis. On the 22d of October, 1832, they signed a treaty, agreeing, that if the King of Holland did not, on the 2d of November next ensuing, engage to evacuate the places held by him within the Belgian frontiers, as marked out by their treaty of November, 1831, they would lay an embargo on all Dutch vessels within their respective ports, arrest and bring in such as they met at sea, and assemble a combined English and French squadron on the coasts of Holland for the enforcement of their decision; and agreeing further, if William did not actually withdraw his troops from the Bel-



gian territory on or before the 15th of the same November, that then a French corps should enter Belgium and forcibly expel the Dutch. This treaty had meaning and point in it; and was precisely the measure which, and which alone, could overcome this *vis inertiae* of Holland.

The King of Holland having distinctly refused to evacuate the citadel of Antwerp, and the forts and places dependant upon it, which the treaty was destined to effect, — an English order in council made its appearance on the 7th of November, suspending all intercourse with Holland, and commanding the detention and capture of all ships belonging to that nation. The *Moniteur* of that date gave information that a like order had been issued in France. And at the same time the combined English and French fleets were despatched to the Scheldt. And these demonstrations producing no effect, the French army of the North, under the command of Marshal Gérard, passed the frontiers on the 15th, directing itself on the citadel of Antwerp. In taking this step Louis Philippe expressly undertook not to occupy any of the fortified places of Belgium, but that, on the contrary, after attaining their object, the French troops would immediately retire upon the territory of France.

Marshal Gérard was accompanied by the Dukes of Orleans and Nemours, and followed by a numerous army, organized and equipped with those irresistible means of sure success, which had characterized the expedition

against Algiers. On the 17th, Baron Chassé, who still commanded the citadel of Antwerp, issued an order of the day, announcing his resolution to hold out the place to the last extremity. Simultaneously with the entrance of the French into Belgium, Prussia caused a numerous army of observation to assemble on the Maes, engaging to withdraw it when the French should withdraw. And thus at length the Belgian question, which had filled Europe with alarm for two years, openly assumed the threatening aspect of an impending European war.

By the 30th of November the French army was ready to commence attempting the reduction of the citadel. The only delicate point in the matter was to preserve the city of Antwerp from being subject to the fire of the citadel. To attain this object Marshal Gérard opened a negotiation with Baron Chassé, which resulted in an understanding that the garrison would treat the city as neutral in the contest, on condition that the French abstained from availing themselves of the fortifications of the city in their hostile operations. This arrangement added greatly to the difficulties of the French, but was dictated by every consideration of honor and humanity. It is edifying to remark the tranquil civility of language employed in the summons to surrender, and the reply. ‘I hope,’ says Gérard, ‘to find you disposed to acknowledge the justice of my request (for the possession of the citadel.) If, contrary to my ex-

pectation, it should be otherwise, I am charged to apprise you that I must employ all the means at my disposal to occupy the citadel of Antwerp.' To which Chassé responded in the same courteous tone: 'In reply to your summons, which I have this instant received, I inform you that I shall not surrender the citadel of Antwerp, until after having exhausted all the means of defence at my disposal.' Whereupon the parties proceeded to address each other in the more expressive language uttered at the cannon's mouth.

The trenches were opened during the night of the 29th to the 30th, and the fire commenced from the citadel at noon of the 30th. Amid great embarrassments from heavy rains and the local situation of the works under the fire of the citadel, everything was completed by the fourth of December, on which day the French batteries opened with a tremendous discharge from eighty-two pieces of ordnance. All means of siege and attack, which modern art supplies, were now brought in requisition by the French, and to such effect that, on the 23d of December, General Chassé signified his desire to stop the further effusion of blood. By the articles of capitulation the garrison, consisting of about 4000 men, became prisoners of war, to be released, however, on condition that the King of Holland should order the surrender of the forts of Lillo and Liefkenshoek, which, being independent of General Chassé, could not be delivered up by him. When the French took possession of the

citadel they found all the buildings within it a heap of ruins, and the soil everywhere ploughed up by shot and shells, indicating alike the skill of the besiegers and the resolution of the garrison. The great object of their expedition being accomplished, the French troops were immediately marched back to their country, leaving King William to digest this decisive step of his good allies, and to ponder upon the measures of coercion still employed by them on the water.

In GERMANY, during the year 1831, various changes occurred among the secondary States, and occasional insurrectionary movements, not attended with any important general results. Of the insurrection, the most serious was that which broke out in the kingdom of Hanover, in January, 1831, beginning at Osterode, and then showing itself at Gottingen. It was promptly suppressed, however, by marching up a strong body of troops, serving no other purpose but to indicate the spread of constitutional opinions, the great point of controversy between the people and the government being the neglect of the latter to concede the constitutional forms promised by the Congress of Vienna. The manifest uneasiness of the people in the smaller States, generally, had already awakened the jealousy of the three greater ones, especially Austria and Prussia, where the happening of a political meeting in Rhenish Bavaria in 1832, led to decided measures of coercion on the part of the Diet, under which measures Germany is now labor-

ing and struggling, like a giant tied to the earth by ignoble bonds.

It was the first wish of the Germans, as subsidiary to their grand aim of uniting all Germany together in one country with free institutions, to have the press unfettered, so as to be able to discuss political subjects with independence. In Bavaria and Hesse, public journals existed, which entered into political affairs more than was agreeable to the ruling powers; and the States of Baden exacted from their Prince his assent to a law relieving the press of the Grand Duchy from censorship. Hereupon the Diet on the 13th of March, in pursuance of a decree on the subject adopted in 1819, as related in our last volume, ordered the suppression of three journals, two printed in Bavaria and one in Hesse. Indignant at the dictation imposed upon the governments of Hesse and Bavaria, the popular party proposed to hold a meeting in the open air, at Hambach, for the purpose of concentrating the opinions of Germany, and giving to it an audible expression. At first, the King of Bavaria prohibited the meeting, but this prohibition was afterwards withdrawn; and the assembly accordingly took place on the 27th and 28th of May. Twenty thousand persons, it is averred, met on the occasion, gathered from Hesse, Nassau, Rhenish Prussia, Baden, and Wurtemberg, as well as from Bavaria. Some few Frenchmen and exiled Poles likewise attended it. Their speeches, toasts, resolutions, and their proceedings in general, were too strongly im-

bued with republican spirit, to be acceptable to the crowned heads of Germany. Indeed, the meeting itself was of peculiar influence upon their authority. Here were the people, not of this or that State, — of Baden or Bavaria, — but of Germany, acting together upon a common object, and upon a question where the interest of the governors conflicted with that of the governed. A few such meetings, and the Germans would be prepared to assert their political rights effectively. Looking to such a consequence, the Diet gladly availed itself of the occasion to throw the swords of Austria and Prussia into the scale of political justice.

Germany, it is to be remembered, is divided into two great interests; on the one hand, that of Austria and Prussia, which have no representative assemblies except the old provincial states, and on the other, Saxony, Bavaria, Wurtemberg, and the minor principalities, which possess a constitutional government. Hanover, notwithstanding its being a dependency of the English crown, is always governed in conformity with the views of Austria and Prussia. It is the settled policy of the two latter governments to discredit, in all possible ways, the legislative assemblies of the smaller States, because in them every man sees the instruments of the ultimate deliverance of Germany. Constitutional assemblies and the press, these are the dreaded enemies of absolutism all over Europe. The meeting of Hambach, like the murder of Kotzebue in 1800, furnished the



great sovereigns with a plausible pretext for whatever outrage on the independence of the smaller States, and the political rights of the people, it might be deemed desirable to perpetrate. In July, the Diet published a set of decrees, which imposed on the legislative bodies of the constitutional States a variety of restrictions, calculated to deprive them of the faculty of deliberating or acting freely, and rendering them the mere subordinate agents of the Diet. At the same time, additional regulations were provided in relation to the press. These acts encountered the warmest opposition in the several legislatures affected by them, although supported by most of the sovereigns; and the discussion of this whole matter is the great political question, which now occupies the general mind of Germany.

GREECE, after the assassination of Capo d'Istrias in 1831, became the scene of utter anarchy, and so continued until the three powers which had interested themselves in its affairs, England, France, and Russia, pitched upon Otho, a minor son of the King of Bavaria, to be made King of Greece. The basis of the new sovereignty was established by a treaty concluded in May, 1832. It was stipulated, that the King of Bavaria should furnish his son with 3600 Bavarian troops for the maintenance of his authority among the turbulent Greek chiefs, the troops to be paid out of the revenue of Greece. The powers guaranteed a loan of two and a half millions sterling for the service of the new sovereign,

of which a portion was appropriated to paying to the Porte an indemnity in consideration of the extension of the Greek frontier to a line uniting the gulfs of Arta and Volo. By the close of the year, all the preliminary arrangements were so far completed as to enable Otho to embark for Napoli in December, after receiving full assurances that his authority would be gladly recognised by the great body of the Greeks.

If Greece had thus finally escaped the immediate control of RUSSIA, that empire did not the less labor for the extension or consolidation of its power in Poland and Turkey. It was not to be supposed, indeed, that Russia would lose the opportunity she had acquired, to take from the Poles what little they still retained of their peculiar institutions. In February an organic statute appeared, which declared the kingdom of Poland to be an integral part of the Russian Empire, and numerous changes were made in the interior government, in the intent of totally obliterating the nationality of Poland. Whatever of remonstrance on this head might be addressed to the Emperor, by Great Britain and France as parties to the Congress of Vienna, it was now too late for them to interpose very efficiently in behalf of the Poles. They might have done so, when Poland bristled with armed freemen; but the complete suppression of the insurrection rendered Russia independent of their wishes, and but little disposed to listen to their reclamations.



And the progress of events in TURKEY was such, as ere long to direct the eyes of all Europe to the seeming approach of the downfall of the Porte, and the consequent ascendancy of Russia on the Bosphorus. Those who observed the progress of the Pacha of Egypt on the side of Arabia, and who recollected the extent of territory formerly possessed by the Sultans of Egypt, had long foreseen that Mehemet Ali would be likely to embrace some propitious occasion to make himself master of Syria. Such an occasion grew out of a dispute between Mehemet Ali and Abdallah, Pacha of the neighboring government of Acre. Ibrahim Pacha, the conqueror of Greece, was despatched with a powerful army, supported by a fleet, to deprive Ibrahim of his Pachalik.— The Porte saw two of its provincial vassals thus engaged in deadly hostilities, without reference to the wishes of their common head. Mehemet Ali, however, was in the situation of aggressor, as he had invaded the territory of the Sultan by sea and land. A firman was despatched to the two Pachas, commanding them to desist from hostilities, and submit their differences to the arbitration of the Porte. This Mehemet Ali would by no means consent to do; and he pressed the siege of Acre with redoubled vigor, while Abdallah held out as obstinately, in the expectation of receiving succor from Constantinople. The Egyptians gained possession of Gaza and Jaffa without difficulty, and reduced Acre to a heap of ruins. Time wore, and no succor

came. Osman Pacha, indeed, advanced as far as Tripoli, but was fain to abandon every thing and fly in disgrace on the approach of Ibrahim. Finding it impossible to hold out any longer, Abdallah at length capitulated, in May 1832, after sustaining a siege of several months' duration.

Ibrahim and his father-in-law were now fairly embarked in rebellion against the Porte. They had treated the Sultan's firman with contempt, driven Osman Pacha from the field, and taken possession, by force, of the Pachalic of Acre. Fortified in their purpose by the success they had thus far enjoyed, the Egyptians lost no time in marching upon Damascus, which fell with scarce a serious attempt at defence. Continuing his triumphant march, Ibrahim proceeded towards Aleppo. On the 8th of July he encountered a large Turkish force commanded by the Pacha of Aleppo, aided by the displaced Pachas of Tripoli and Damascus, and gained a signal victory, which assured to him the possession of Aleppo. The war had now grown to be a matter of life and death to the Sultan, who strained all his exhausted resources to raise a force adequate to withstand the Egyptians. Ibrahim had, meanwhile, advanced to Antioch, and there he found that Hussein Pacha had taken post at Beilan, with a large army, to guard the passes of Mount Taurus. If Ibrahim could overcome this force, there would be nothing to prevent his entering Caramania, when he might, if he pleased, march upon Constantinople, and dictate his

own terms to the Sultan in the capital of the empire. It was a bold venture, but the Egyptian tried it, and triumphed. He attacked the Turks on the 29th of July, and gained a complete victory, thus completing the conquest of Syria. The circumstances, which saved the Turkish Empire from total dissolution in consequence of the advance of Ibrahim to the neighborhood of Constantinople, belong to the history of another year, when the Sultan was seen to have recourse, for the preservation of his throne, to the Russians, the hereditary enemies of Turkey by religion and by policy, — delivering up his capital to them as his only means of defending it from the all-grasping ambition of the Egyptians.

SPAIN was tranquil, and afforded no materials for history, until the dangerous illness of the king in September, 1832, proved by how feeble a thread the peace and happiness of an hereditary monarchy are suspended. His health had been sometime declining, and at length the prospect of his death became imminent. The partisans of Don Carlos seized upon the favorable moment of bodily and mental weakness to obtain from him a decree revoking that of March, 1830, and restoring the Salic law of succession, introduced by Philip V. Yielding to the representations made to him by so many eager advocates of the pretensions of his brother, he consented to disinherit his daughter in favor of Don Carlos. But when the schemes of the Carlists appeared

to be crowned with complete success, and the King was accounted as it were already dead, he unexpectedly rallied, recovered full possession of his reason, and was made conscious by the Queen of the machinations of which she and her daughter were to have been the victims. Indignant that such advantage had been taken of his condition, he appointed the Queen to be Regent of the kingdom during the continuance of his illness, banished Calomarde from his councils and eventually from the kingdom, and entered upon a series of comparatively liberal measures, which promised the happiest influence upon the general welfare of Spain. This last change in policy necessarily ensued from the character and purposes of the individuals, who had composed the particular adherents of Don Carlos, they being the ultra-absolutists, and by no means cordially attached to Ferdinand himself. To strengthen herself against them, the Queen invited to her service many of the moderate party. Don Francisco de Zea Bermudez was recalled from the Court of Saint James, to replace Calomarde in authority at Madrid. The universities were reöpened. A general amnesty for political offences was proclaimed, from which those only were exempted, who had at any time commanded an armed force against their King, or who as members of the Cortes had voted for his deposition at Seville. Finally, a decree was issued in December, reviving that of March, 1831, and restoring the ancient law of succession in

behalf of the daughter of Maria Cristina. And thus, by the accident of an abortive intrigue in the sick chamber of a monarch, the dawn of improvement, so long hoped for and almost despaired of, was at length opened upon Spain.

It remains only to relate the beginning and progress of the war in PORTUGAL between Miguel, the ruler of the kingdom *de facto*, and his elder brother Pedro, acting in the name of his daughter Donna Maria de Gloria. Immediately after his arrival in Europe, Pedro had set about the vindication of the rights of the titular Queen of Portugal. Troops were enlisted, and vessels, arms, and stores taken up in England and France, a rendezvous being established at Belleisle, on the coast of France. After making such arrangements as were necessary, the expedition departed for Saint Michael, one of the Azores, where the final measures were taken for effecting a landing in Portugal. Notwithstanding the professed neutrality of the governments of England and France, they undeniably connived at the preparations making in the ports of their respective countries, influenced by views adverse to the authority of Miguel. It was very easy to collect a large force of disbanded soldiers, half-pay officers, emigrant Portuguese and Poles, in short, men of action and adventure, of various nations,—to man the ships and compose the army of Don Pedro. British officers commanded his fleet, and French or British officers held eminent rank in his land forces. If the

expedition were successful, there would be prize money for the privates, and honor for the officers; they hardly paused to reflect how it would fare with them if they failed.

Pedro set sail from Saint Michael's in June, with a fleet of five large, and seven smaller vessels, besides transports and gunboats, mustering a force of about 10,000 men. His preparations having gone on very publicly for upwards of six months, Miguel had ample notice to be ready to receive him, and might have resisted his landing, except that his intended place of effecting it was kept secret. At length, however, the squadron appeared off the Douro, near the mouth of which the troops were disembarked without resistance, to march immediately and gain possession of Oporto. This they accomplished on the 10th of July, while the troops of Miguel fell back upon Coimbra. Oporto had been selected by Pedro, as a point at once defensible on the land side, and accessible to communication with his fleet by means of the Douro, at the same time that it was the second city in the kingdom, and peculiarly attached to the Constitution. Here he fortified himself strongly, and prepared to take advantage of circumstances, hoping to see the Portuguese themselves rise in the cause of his daughter. In this, however, he was disappointed. The country remained tranquil and unmoved, while Miguel took measures to invest Oporto with all his forces, and either to reduce the city, or at least prevent Pedro from making

any advance into the heart of the kingdom.

Although Miguel's troops fell back at first, yet they came up again in a few days, and took post at Penafiel. A little skirmishing, with marching and countermarching, ensued, previous to the 22nd, when a battle was fought at Valongo, which satisfied both parties that the contest was not likely to be a brief one. Pedro claimed the victory, but was content to make good his position in Oporto and in the suburb of Villa Nova, on the opposite side of the river, while the troops of Miguel continued to hem in the Constitutionals by a line of posts stretching from Penafiel on the southeast, around to Redondo on the south side of the Douro. On the 7th of August the Constitutionals made an unsuccessful attempt to carry the position of the Miguelites at Redondo. Some few rencontres, of no great moment, occurred in the same month between the fleet of Pedro under Admiral Sartorius, and that of Miguel. — Early in September the Miguelites became the assailants. They began by driving the Pedroites from Villa Nova; but as the latter still retained the convent of Serra on the same side of the river, the two parties exhausted

themselves for a while in desperate efforts to gain or hold those places respectively. On the 29th of September, again, the Miguelites made a combined attack on the works around Oporto, but without carrying them; and on the 13th of October another attempt was made, without success, on the convent of Serra. After this the Miguelites contented themselves with laying siege to Oporto; and for the residue of the year the war consisted only of the usual incidents of a siege, in which neither side made any very effectual progress towards a conclusion of the affair. Thus much, however, was apparent. — Pedro was shut up in Oporto, with a turbulent army, opinionated foreign officers, and very imperfect resources, to maintain the pretensions of Donna Maria. But the Portuguese nation afforded him neither men nor money. On the contrary, Miguel's army was numerous, resolute, comparatively well found, and betrayed not the slightest disposition to quit his service, for that of Pedro. — In fact at the expiration of the year, the war presented to all appearance the picture of an invader and a foreign army striving to impose a new government upon Portugal.

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## CHAPTER X.

### ENGLAND.

*Situation of England in 1831 — Proclamation against Political Unions — Meeting of Parliament — Reform Bill again introduced — Character of Bill — Adjournment of Parliament — Trial of Bristol Rioters — Parliament re-assembles — Proceedings in Commons on Reform Bill — Bill passes — Proceedings in House of Lords — Second reading of Bill — Ministers defeated in Committee — Ministers resign — Negotiation to form a new Administration — Excitement — Resolutions of Commons — Whig Ministers re-appointed — Opposition to Reform withdrawn — Reform Bill passes — Scotch Reform Bill — Nature of Reform — Bill passes — Irish Reform Bill — Nature of Reform — Bill passes — Nature of Reform — Consequences — Ireland — Opposition to collection of Tithes — Modification of Tithe System proposed — Nature of alteration — Law for collection of Tithes passes — for Composition of Tithes — Prohibiting Party Processions — State of Ireland — Disturbances — West India Colonies — Emancipation — Insurrection at Jamaica — Reform in Finances — Legislation — Dissolution of Parliament.*

THE riots at Bristol, Nottingham and other places, in the latter part of 1831, had given indications, which could not be misunderstood, that the downfall of the Tory party was at hand.

Upon the rejection of the reform bill in the House of Lords, on the 7th of October, steps were immediately taken to prevent the resignation of the ministry. Lord Ebrington moved, in the House of Commons, a vote of confidence in the Whig cabinet, and the triumphant majority, by which that

motion was carried, interposed an insuperable obstacle against the return of the Tory party to power. The ministers on their part, — Lord Brougham in the upper, and Lord Althorpe in the lower House, — assured the public, that their continuance in office depended upon the success of a measure of reform equally extensive and thorough, with that which had been rejected, and adjured the friends of reform to show themselves the friends of public order, and to restrain all violence and

outrage. It was not however consistent with the course of parliamentary proceedings, to bring forward the bill at that session, after it had been once rejected, and the ministers consequently turned their attention to the completion of a few bills, which were in a state of forwardness before the prorogation.

On the 20th of October the session was closed by a speech from the throne, which strongly enforced the necessity of a constitutional reform of parliament, and the King expressed his unalterable desire to promote the settlement of that question by such an improvement in the representation as might be found necessary for securing to his people the full enjoyment of their respective rights, 'which in combination with those of the other orders of the State,' he declared 'were essential to the support of our free constitution.'

This liberal sentiment, in the King's mouth, materially aided the government in preserving public order during the turbulent vacation, which followed the rejection of the reform bill. It evinced the determination of the monarch to yield to the wishes of the nation, and indicated that in the final struggle with the aristocratic party, the King and the people were united in interest, and in sentiment.

At the same time the government took efficient steps for the preservation of the public tranquillity. Special commissions were issued for the trial of the rioters at Bristol, Nottingham, and Derby. The political unions which

had proved very efficient in giving an impulse to the work of reform, having evinced a disposition to give greater unity to their proceedings, by forming a National political union, the government began to fear that a power was growing up in the State, which might ultimately prove too strong for control. The doctrines put forth by an association of the working classes, savored strongly of a Jacobin spirit, and a meeting called by that association in London on the 7th of November to sanction those doctrines, was regarded with such distrust by government, that precautionary measures were taken to put down the meeting, and a deputation from the society was informed by the Home Secretary, that its professed objects were treasonable, and they were advised to abandon it. This was accordingly done, and on the 22d of November, a proclamation was issued declaring these political associations to be unconstitutional and illegal, and commanding all the lieges to abstain from joining them.

This had the effect of checking the growth of the spirit of affiliation and concerted action; but the existing unions continued as before to act in impelling the progress of reform, and to press their peculiar ideas upon the government.

All eyes were now directed to the opening of Parliament, which took place on the 6th of December, 1831. The King delivered the speech in person, it being one of the longest delivered from the throne for many years, and remarkable, also, for furnishing some

real information concerning the state of public affairs. In this document, which will be found in the appendix, page 292, the speedy and satisfactory settlement of the question of reform is enforced, as of great importance to the security of the State, and for the contentment and welfare of the people.

In pursuance of this recommendation Lord John Russell, on the 12th of December, brought forward for the third time, the bill for reforming the House of Commons.

This bill, although somewhat modified from that, which had been rejected, was not less efficient. The principles recognised in the former bill, consisted in the disfranchisement of decayed boroughs; the enfranchisement of large and opulent towns; and the introduction of new electoral qualifications. In determining upon the boroughs to be disfranchised, the census of 1821, was taken as the standard in the former bill, and all whose population did not reach a certain number were included in the disfranchised list. Since then, a new census had been completed, which although it could not be entirely thrown out of view, was liable to the objection, that in all the boroughs whose population approached the point of disfranchisement, great pains had been taken to swell the enumeration above that point. It was therefore determined to resort to the number of houses, rather than that of inhabitants, as affording less room for imposition. In adopting this test, it was necessary to take into con-

sideration, the character of the houses, as well as their number, so that an inconsiderable place, with the requisite number of houses, might not be represented, to the exclusion of towns of more real importance, but with a smaller number of houses. This was done by referring to the annual amount of assessed taxes in connection with the number of houses of £10 annual value.

Upon these data a new schedule (A) had been formed, containing the boroughs to be disfranchised, which amounted to 56, — the same number that were in the former bill, although some of the boroughs which formerly escaped disfranchisement now took the place in schedule A, of the other, and that by the operation of the new rule were removed to schedule B.

Those now proposed to be added to the disfranchised class were Aldborough, Amersham, East Grinstead, Oldhampton, and Saltash, in the place of Midhurst, Petersfield, (Eye), Wareham, and Woodstock, which were removed to schedule B, containing the boroughs that were to be represented by one member. As the disfranchising these boroughs would still leave 23 members to be disposed of, besides the additional members given to the counties and to the newly enfranchised towns; it was proposed to give an additional member to some of the new boroughs, and to remove some of the largest of the boroughs from schedule B. This schedule would then contain 30 boroughs, instead of 41, the number included in the same class

annexed to the former bill ; and the representation of the newly enfranchised towns, entitled to send two members each, would be increased from 12 to 22. In this manner the towns of Bolton, Brighton, Bradford, Blackburn, Macclesfield, Stockport, Stoke upon Trent, Oldham, Stroud, and Halifax, were added to schedule C, and enabled to send two members each. A member was also given to Chatham, and another to the county of Monmouth. These alterations had the effect of diminishing the number of boroughs, whose representation was reduced, from 41 to 30 ; but on the other hand, it gave additional representation to some of the larger towns. The measure of reform therefore, was not materially altered, so far as the apportionment of representatives was concerned. That important part of the bill, which regulated the right of suffrage, was subjected to a greater modification. In the former bill the occupants of houses assessed to the poor rate at £10, and which were of the yearly value of £10, were entitled to vote in boroughs ; but no tenant whose landlord compounded for the poor rates, unless he claimed to be rated himself, and unless he had occupied the premises for one year, was admitted to the exercise of this right. — The present bill proposed, that the occupants of houses, of the yearly value of £10, who were rated at any sum, should be entitled to vote in boroughs.

It was also provided, that the rights of freemen acquired by birth or servitude, should be pre-

served forever, excepting those who were non-resident ; and that in those cities which were counties in themselves, those who voted in the county at large, and those who voted for the county of the city, should stand on the same footing as formerly ; and those who were not entitled to vote for either place, should be allowed to vote upon their qualifications in the county where the borough was situated. It was asserted by the Tory party, that these alterations had been made in consequence of their suggestions ; and that the provisions, perpetuating the rights of freemen and preserving the full complement of the House, had been inserted through their earnest opposition at the last session. It was admitted on all hands, that the bill was better considered than its predecessor ; and leave was given to bring it in, and it was read the first time, and after an animated debate on the 16th and 17th of December, was ordered to a second reading, ayes 324, nays 162. Parliament then adjourned to the 17th of January, when the subject was to be again brought forward for a final decision.

During the recess, legal proceedings were instituted against the rioters at Bristol and Nottingham, and inquiries were also directed into the conduct of the municipal authorities, and of the officer commanding the military at Bristol.

Twentyone of the rioters at Bristol were convicted and condemned to death, four of whom were left for execution. Nine



were convicted at Nottingham, of whom five were condemned to death, and three were executed. The court martial held on Col. Brereton, was suddenly terminated by the suicide of that officer, who was unable to bear up against the censure of the public for his indecision at such a crisis; and the Mayor was acquitted on the indictment found against him, — it having been proved, that he had acted with firmness and efficiency, and that he failed only from the refusal of the respectable householders to co-operate in suppressing the tumult.

This severe investigation, however, had a happy effect in checking the spirit of turbulence, and enabled the Government to preserve its ascendancy in the approaching struggle between the privileged few and the great body of the nation. A strong conviction prevailed, that the ensuing session would be decisive as to the expectation of a legal and peaceable reform, and would result either in a law according to the general wish, or in the horrors of a violent revolution. The meeting of Parliament was therefore expected with an anxiety proportionate to the important consequences of its decision upon this momentous question. On the third day after its assembling, (*viz.* on the 20th of January) upon the motion of Lord John Russell, the House went into Committee on the Reform Bill, and commenced the examination of its details. The Committee continued its labors with great perseverance until the 9th of

March, by which time it had gone through all the important clauses of the bill — the ministers yielding to many of the suggestions of their opponents, with a fair and liberal spirit, when they did not affect the grand principles of reform.

Various efforts were made to break in upon the integrity of the measure, but without success. With the view of embarrassing its progress, Mr Croker moved, that no specific number be named to be inserted in Schedule A; but the ministers admitting that the number of 56 was arbitrary, contended that some number should be mentioned; and that as that number had been inserted in the last bill, it was a good reason for continuing it. The House accordingly determined to retain it, by 198 to 123.

A similar fate attended an amendment moved by Sir Robert Peel, that the boroughs in Schedule B should continue to send two members — which was rejected, 112 to 210. An amendment was then offered, to prevent the division of the counties to which four members were to be given, but it was negatived, 89 to 215.

The Committee then proceeded to fix the qualifications for borough electors, which brought forth various amendments. Mr Hunt first proposed, that all persons paying direct taxes should be allowed to vote, which was negatived, only eleven members voting in favor of it; as was also another proposition by him, that all persons not entitled to vote, should be exempted from taxa-

tion, militia service, and impressment. The other amendments involved no important principle, and were rejected either without a division, or by large majorities.

On the 20th of February, the Schedules were taken up, and a preliminary discussion took place, as to the principles, upon which the line was drawn between the boroughs to be disfranchised and those whose representation was preserved. No division, however, was had upon this point, and the disfranchisement of fifty-two of the boroughs in Schedule A, was agreed to. Some conversation took place respecting Lostwithiel and Brackley, which also were included therein; and an effort was made to place Midhurst in the same schedule, instead of Amersham, which was negatived, 254 to 153; as was a similar attempt in favor of Appleby, 256 to 143.

Mr Shiel then moved to dis-

franchise Petersfield, and four other boroughs; but withdrew his motion upon the suggestion of Lord Althorpe, that if he should succeed the bill would be endangered in the Upper House.\*

Schedule B was then taken up, and after some opposition had been made to the partial disfranchisement of Dartmouth and Helston, and to the representation of Midhurst, the names of thirty boroughs contained therein were agreed to.†

When Schedule C, containing the new boroughs entitled to two members each, came under consideration, the only opposition made, was to increasing the representation of the capital, by giving new members to the metropolitan districts of Tower Hamlets, Finsbury, Mary-le-bone and Lambeth. This was resisted, as too much augmenting the power of London, by increasing its representation to 22 members,

**\*SCHEDULE A,**

Containing the disfranchised boroughs.

Old Sarum	Aldborough
Newton	Camelford
St Michael's or }	Hindon
Midshall }	East Love
Gatton	Corfe Castle
Bramber	Bedwin [Great]
Bossiney	Yarmouth
Dunwick	Queensbough
Ludgershall	Castle Rising
St Mawe's	East Grinstead
Beeralston	Higam Ferrers
West Looe	Wendover
St Germain's	Weobly
Newport	Winchelsea
Blechingley	Whitchurch
Tregony	Steyning
Haslemere	Wotton Bassett
Saltash	Downton
Orford	Fowey
Callington	Milborne Port
Newton	Aldeburgh
Ilchester	Minehead
Boroughbridge	Bishop's Castle

Stockbridge	Okehampton
Romney [New]	Appleby
Hedon	Lostwithiel
Plympton	Brackley
Seaford	Amersham
Heytesbury	

**†SCHEDULE B,**

Containing old boroughs, with one member.

Petersfield	Thirsk
Ashburton	Christ Church
Eye	Horsham
Westbury	Great Grimsbury
Wareham	Calne
Woodstock	Arundel
Wilton	St Ives
Malmesbury	Rye
Liskeard	Clitheroe
Reigate	Morpeth
Hythe	Helston
Droitwich	North Allerton
Lyme Regis	Wallingford
Launceston	Dartmouth
Shaftesbury	Midhurst

viz: London 4, Southwark 2, Westminster 2, Surrey 2, and 2 each for the four districts before named, and Greenwich. Upon division, however, the House decided in favor of the metropolitan districts, 316 to 236.\*

Schedule D, containing the boroughs to send one member each, was then taken up, and after various efforts to modify it, by striking out some boroughs and inserting others, it was agreed to. On the 14th of March, however, upon motion of Lord John Russell, Merthyr Tydvil a Welsh borough, was inserted in Schedule D, by giving it the additional member at first intended for Monmouth.†

The other schedules were then examined and sanctioned, and on the 20th of March the bill was taken up, on a motion for the third reading; which, after an animated debate, extending to the 22d of March, was ordered, 355 to 239.

The next day, the bill was passed and carried to the House of Lords.

In that body, it was well known that the hostility to the proposed measure remained unabated, and that the ministers depended for success upon the strength of a

party who were not unaptly denominated 'waverers'; or, as a final resort, upon the royal prerogative, by creating a sufficient number of peers to secure the ministerial ascendancy. This course they were urged to adopt at once, as the wavering party, although they might contribute by their votes to carry the second reading, could not be relied upon for preserving the bill unmutated, when considered in committee.

The Premier, therefore, was openly censured by the unpromising reformers, because he did not exercise the power of creation, which the public was given to understand, was vested in his hands. The hostility of Wellington, Buckingham, Wynford, Eldon and their followers to reform, was as determined as ever; and apprehensions were expressed on all hands, that the elements of opposition in the House of Lords would prove sufficiently strong to defeat the measure of the government for the third time. When, however, it was seen, that the bill was laid before that body, without a single peer having been created, it was supposed that the ministry had received some assurances from the opposition, which obviated the necessity of resorting to

#### \* SCHEDULE C,

Containing new boroughs, with two members.

Manchester	Lambeth
Birmingham	Bolton
Leeds	Bradford
Greenwich	Blackburn
Sheffield	Brighton
Sunderland	Halifax
Darnford	Macclesfield
Wolverhampton	Oldham
Tower Hamlets	Stockport
Finsbury	Stoke-upon-Trent
Mary-le-bone	Stroud

#### † SCHEDULE D,

Containing new boroughs, having one member each.

Ashton under }	Rochdale
Lyne }	Salford
Bury	South Shields
Chatham	Tynemouth
Cheltenham	Wakefield
Dudley	Walsall
Frome	Warrington
Galestead	Whitby
Huddersfield	Whitehaven
Kidderminster	Merthyr Tydvil
Kendall	



a new creation. The progress of events soon furnished a partial explanation of the policy of the ministers. Lords Harrowby and Wharncliffe upon the first reading declared their intention to vote for a second reading, but with the view of modifying the bill in committee. As these noblemen and their friends were relied on, for the passage of the bill, it was at once seen, that the fate of the measure hung upon their decision, and the imprudence of the Premier in trusting to the hollow support of men, who did not scruple to avow their dislike of the bill, was attempted to be explained from the fact, that he had not been authorized to create new peers. Whether this power had been refused or not, was not ascertained, nor was it certainly known, whether it had been made even a topic of discussion between King William and his advisers; but it was obvious, that Lord Grey felt great reluctance in proposing a measure, which could only be regarded as subverting the independence of his order; and subsequent events made it apparent, that the King was influenced by persons around him, who were unfriendly to the innovations that were proposed in the constitution of the kingdom.

In this state of affairs, the bill was brought to the test of a second reading, in the House of Lords. The motion to this effect was made on the 5th of April, and the arduous debate, which ensued, continued through four nights. The question was

not taken until the 14th of April, when it was carried 184, to 175, of which 128 in favor, and 126 against, were present — the residue being proxies.

The majority by which the bill was ordered to a second reading was too small to give the Premier any confidence of being able to carry it through the committee, and as proxies were not counted in committee, the actual majority present, was reduced to two. — Still, however, much had been gained by this vote. The bill was preserved for the session, and if any unfavorable decision should take place in committee, the country might be preserved from the tumults, that could not be prevented in case Parliament should adjourn without adjusting this question.

Time was given for negotiation and arrangement, and an opportunity afforded to effect the reform without the direct interference of the people. Shortly after this decision the Easter recess took place, and parliament did not meet until the 7th of May, when Lord Grey at once moved, that the House of Lords go into committee upon the reform bill; and stated that in considering the details, he should propose not to name the boroughs to be enfranchised, until those which were to be disfranchised had been considered. Lord Lyndhurst immediately rose and proposed, that the clauses disfranchising boroughs be postponed, until the places to be enfranchised had been fixed upon. This motion, after an earnest discussion, was carried, 151 to 116.



The ministry was thus left in a minority of 35, and Lord Grey, at last convinced of the impossibility of carrying the bill through the House of Lords, immediately moved that its farther consideration be postponed until the 10th of May. This was acceded to, and the ministers, entirely satisfied that a majority of the peers could not be induced to acquiesce in the measure of reform, that was demanded by the public voice, determined no longer to stand between the privileged few, and the mass of the nation; but to permit the former to meet and control the storm that their madness was provoking. The Premier accordingly, in conjunction with his colleagues, informed the king, that unless he was authorized to create a sufficient number of peers to carry the reform bill through Parliament, they could no longer, with honor to themselves, or usefulness to the country, remain in charge of the government.

William IV. here manifested his entire unfitness to carry out the part he had for a short time assumed of the patriot King. — Instead of placing himself on the side of the people, as their constitutional head, in their demand for reform, and rendering this factious majority powerless, in the mode prescribed by the constitution, he hesitated to arm his ministers with the necessary powers, and resorted for advice to the domestic coterie, that is always found about those who govern by right of birth, and not by right of character. The advice of these ‘Lords of the bed-chamber,’ or

‘kitchen cabinet,’ of course was in favor of preserving the independence of the privileged order, and on the following day, Lord Grey was informed, that his Majesty had determined to accept the resignations of the ministers, rather than resort to the only alternative proposed.

The resignations were of course immediately sent in, and negotiations were set on foot to form a new administration. On the 9th of May, Lord Grey announced, in the House of Lords, and Lord Althorpe, in the Commons, that the ministers had tendered their resignations, and only held their offices until their successors should be appointed. This announcement of the termination of the Whig administration, without effecting the reform that had been so long promised, acted upon the public mind like the signal for revolution. The English nation was in truth taken by surprise, when the ministers announced, that the government was about to be again placed in the hands of the Tory party.

A general belief had been produced, by the administration journals, that a new creation would take place, and that all would be well. The people therefore looked with certainty to this mode of carrying into effect their wishes by ‘a reforming monarch,’ in spite of the efforts of the refractory Lords. How great, therefore, was their astonishment, when officially informed, that in this contest between them and the privileged orders, they must rely upon their own strength, as their

King had deserted them. But, although astonished, they were by no means dismayed. They knew that the contest was between the mass of the nation and a party, that however powerful in talent and wealth, was hostile to the principles upon which the fabric of English liberties was erected, and they were prepared to act in concert, to subvert any government, which should attempt to rule, without making the House of Commons a more faithful representative of the public will. In order, however, to obviate the necessity of this ultimate resort, and to present an insuperable obstacle to the formation of a ministry upon principles hostile to the proposed reform, Lord Ebrington, on the 10th of May, moved in the House of Commons, 'That an humble address be presented to his Majesty, humbly to represent to his Majesty the deep regret felt by this House, at the change which has been announced in his Majesty's councils, by the retirement of those ministers in whom this House continues to repose unabated confidence. That this House in conformity with the recommendation contained in his Majesty's most gracious speech from the throne, has framed and sent up to the House of Lords, a bill for a reform in the representation of the people, by which they are convinced that the prerogatives of the crown, the authority of both Houses of Parliament, and the rights and liberties of the people, are equally secured.

'That to the progress of this measure, this House considers itself bound in duty to state to his

Majesty, that his subjects are looking with the most intense interest and anxiety, and they cannot disguise from his Majesty their apprehension, that any successful attempt to mutilate or impair its efficiency would be productive of the greatest disappointment and dismay.

'This House is therefore compelled, by warm attachment to his Majesty's person and government, humbly, but most earnestly, to implore his Majesty to call to his councils such persons only as will carry into effect, unimpaired in all its essential provisions, that bill for the reform of the representation of the people which has recently passed this House.'

These resolutions after a warm discussion were carried, 288 to 208, and the decided majority in the body commanding the public purse, in favor of the reform required, must have convinced the most sanguine, how hopeless a task a Tory ministry would undertake, in assuming the management of the government at such a crisis. Nor was there any chance of obtaining a House of a more favorable character, in case of a dissolution. The nation was in a state of unprecedented agitation. The political unions, besides their own regular meetings, convoked assemblies in the open air, at which were voted addresses to the king, praying him to create as many peers as might be necessary; and to the House of Commons, imploring them to stop the supplies, and to grant no money payments, until an administration of the known friends of reform was formed. The inhabitants of Lon-

don and of Westminster, joined in recommending this decisive step to Parliament, and the livery of London resolved that 'a petition be presented to the House of Commons, showing that the only measure pointed out by the constitution, for preventing the continuance of a collision between the two Houses of Parliament, had not yet been adopted, and praying that in order to obtain a redress of grievances, and to bring about a speedy settlement of the aforesaid all-important measure, the honorable House will be pleased to exercise its undoubted function (given it for the good and welfare of the nation,) by refusing to grant any further supplies to the executive government until the aforesaid bill shall be passed into a law; thereby preventing the painful necessity of enforcing the law against those who have already refused, or who may hereafter refuse to pay the taxes.' They also appointed a committee of 50, with power to add to their numbers, 'to continue their sitting until the reform bill brought in under Lord Grey's administration be passed into a law,' and recommended the formation of similar committees, throughout the United Kingdom.

The national political union suggested the propriety of placing the supplies in the hands of commissioners named by the House of Commons, in imitation of the course taken by the same body in 1642, and at Birmingham, Manchester, Brighton, Banbury, Boston, Exeter, Portsmouth, Sheffield, Canterbury, and Norwich, meetings were held,

where resolutions were passed, and a feeling manifested, that showed the country was in earnest, in its demand for reform or revolution.

The spirit which had exacted guarantees of the rights of the nation at Runnemede, and in the revolutions in the reigns of Charles I, and James II, was again abroad, and demanded in the determined tone of conscious strength, that the powers which had been usurped and abused by the Tory aristocracy, should be placed in other hands. Such was the alarming state of the kingdom, when the Duke of Wellington engaged in the task of forming a new administration! The Duke himself had barred the door against his own return to the office of Premier, by his declaration when he retired, that 'no reform was required.' At such a crisis, to place a military chieftain with such sentiments at the head of government, would have looked like an attempt to rule, in defiance of public opinion, and the reformers would have been driven at once to action.

The firmest adherents of the aristocracy, shrunk from the responsibility of joining an administration thus formed, and Lord Lyndhurst waited upon Sir Robert Peel, and authorized him, by direction of the King, to form a cabinet, but upon the condition of supporting an extensive measure of reform.

This offer, was at once declined as inconsistent with the ground that Sir Robert had taken in opposition to the bill, and not entertaining any hope of being able to

modify the bill, with the decided majority in the Commons against him, he declared that, he could not accept of office, under such circumstances. The Duke then advised the King, to renew his communication with his former ministers, and after some little delay, they were fully empowered to adopt the necessary measures, to carry the reform bill through parliament, without any material modifications.

On the 18th of May, this fact was stated to both Houses, and the ministers having resumed their offices, the House of Lords, on the 20th of May, resolved itself into committee, upon the reform bill. From this moment all serious opposition to the bill was withdrawn, and as was generally supposed from an understanding, that the abandonment of further resistance to the measure, would render it unnecessary to create an additional number of Peers : — the opposition seldom numbering on a division 40 votes. On the 4th of June, it was ordered to a third reading by a vote of 106 to 22 and on the 7th, after the verbal amendments made by the Peers had been confirmed by the Commons, the Royal assent was given to the bill by commission. This measure, which may emphatically be denominated the 'NEW MAGNA CHARTA' of England, was followed by the passage of the reform bills for Scotland, and Ireland.

These bills had been introduced at an early period of the session, (January 19) ; but had lain upon the table of the Commons, until the fate of the English reform

bill was determined. The question of reform as to these countries did not stand upon the same footing as in England.

In Scotland, the freehold franchise consisted in holding of the crown, a mere right of superiority, and had in the course of time, become entirely separated from the land, to which it had been originally annexed. All the voters in a county might indeed possess not an acre of land, and yet represent the whole freehold vote. The political franchise in the counties, had consequently formed the subject of traffic, and had been gradually acquired by the adherents of the ministry, or of wealthy families interested in politics. One object of the Scotch reform bill was to extend the right of suffrage to the real proprietors of the freehold ; to tenants for life or for fiftyseven years of freeholds, of not less than £10 annual value ; and to tenants for nineteen years, of the yearly value of £50.

The borough representation of Scotland, was equally objectionable. None of the towns except the royal boroughs were entitled to representation, and these boroughs with the exception of Edinburgh, were not entitled to a member, except in conjunction with others — several being classed in one district, which was entitled to a member. Each borough in a district was entitled to a vote, without any reference to its comparative importance, which was given through a delegate, and a majority of the delegates of the borough made a choice. These delegates were appointed by the borough electors, who were generally composed of



the members of the merchant's council and of the tradesmen's council, or, in other words, of the corporation in which the elective franchise was vested. Many important cities were thus excluded from all share in the choice of representatives, and an insignificant borough, hardly deserving the name of a town, exercised the same power with Glasgow. The new bill proposed to erect Glasgow into an independent borough, sending two members, and to give Edinburgh also two members. Aberdeen, Dundee, and Perth, which were before included in districts, and Greenock, and Paisley, which were not royal boroughs, were to send one member each. Some other towns which had not been before represented, took the place in the borough districts of those, which had been elevated to separate representation: and one district, on the northern side of the Frith of Forth, was merged in the district from which Perth, Dundee, and Forfar, were taken, and a new district was formed, consisting of Leith, Portobello, and Musselburgh. There were thus eight additional members given to Scotland, and exclusively to the borough representation. The elective franchise in the boroughs was rendered uniform, by extending it to all, who owned or occupied any premises of £10 yearly value, and the eldest sons of Peers, who before were ineligible as candidates, were made capable of electing, and being elected. This bill was read a second time in the Commons on the 21st of May, and although some complaints were made, be-

cause the bill did not do justice to the landed interest,—the county representation bearing no fair proportion to that of the boroughs; and also because the total representation of Scotland was too small, whether considered in reference to population or taxation, it was carried through speedily and without any effectual opposition.

A motion to give to the larger counties two members each, received only 61 votes to 168 in the negative. In the House of Lords, there was no opposition to the second reading, although there were attempts made to amend the bill, by giving two members to the Scotch Universities, and to increase the members from Scotland, from 53 to 61. The amendments were negatived without a division, and the bill was passed on the 13th of July, and received the royal sanction in the beginning of August.

The Irish reform bill was next taken up. In that country the representation had been too recently organized to have departed far from its original character. The chief defects existed in the elective franchise, and in the disproportionate power held by England, in the House of Commons. To remedy the first, the bill proposed to bestow the franchise in counties, upon all owners and occupants of premises of the yearly value of £10 as in England; to all lessees, for fourteen years, of premises, where the rent was £20; and to lessees for twentyone years of £10 tenements, which were deemed equivalent to the £50 leaseholders and 40s freehold-

ers in England : — the 40s freeholders in Ireland having been disfranchised in 1829 as a condition of the Catholic emancipation act. In the boroughs, where the electors were already respectable, it was proposed to extend the right to all resident £10 householders. To the number of Irish members, which was 100, were to be added five, who were given to the towns of Belfast, Waterford, Limerick, Galway, and Dublin University, which were in future to return two members each. This bill was ordered to a second reading on the 25th of May, 246 yeas, 138 nays, and the House resolved itself into committee on the details June 13. Mr O'Connell, in committee, proposed to restore the 40s freeholders to the right of suffrage ; but the amendment was opposed by the ministers and finally rejected, 122 to 73. Sir Robert Heron moved to transfer the additional member proposed for Dublin University to the city of Kilkenny, but the motion was rejected, 147 to 97. Several amendments were then proposed ; to extend the right of suffrage to £5 leaseholders : to land-holders and leaseholders, in boroughs not paying municipal taxes ; and to the descendants or successors of the freemen in boroughs, but being opposed they were all rejected. Mr D. Browne, then proposed that five of the smallest Irish boroughs should be disfranchised for the purpose of giving an additional representation to the counties of Mayo, Donnegal and Cork. Mr Stanley opposed the motion, because it was not intended by the government to frame any new

system of representation for Ireland ; and if it were, the places designated in the amendment were not well selected ; as the county of Mayo, for instance, where, out of 300,000 inhabitants, 224,520 had applied during the last year, for relief from the fund provided for the famishing poor of Ireland. The amendment was accordingly rejected without a division. On the 18th of July, the bill was read a third time, and sent to the House of Lords, through which body it passed rapidly, and received the royal assent in the beginning of August. While these bills were passing through parliament, other bills were also maturing, establishing the divisions of counties, and boundaries of boroughs. These bills, which had the same object in view, were also passed into laws, about the same time, and together with the three reform bills completed the reformed, or rather the amended constitution of England.

But although this was intended merely for a reform, it was in truth a new constitution. Not that it departed from the old basis of a representation of boroughs, and agricultural districts, without particular reference to their comparative wealth and population : nor that it did not preserve the whole power of the government in the hands of England, as the metropolitan part of the Empire. These features, which are as inconsistent with principle, as the representation of decayed boroughs, were still retained ; and the House of Commons continued to be, as it always had been, a representative body established upon

a traditional basis, in which England exercised a disproportionate share of power. The power however was now vested in different hands. The tory aristocracy had been driven from their strong hold in the British Constitution. The means by which they had sent into the popular branch a majority of their adherents, had been wrested from them, to be vested in a more numerous class, and one more directly connected with the business of the kingdom. Old Sarum, and Gatton, are no longer to send their representatives to St Stephen's Chapel; and Birmingham, and Manchester, have taken the places of these disfranchised boroughs. Many other decayed boroughs, the property of aristocratic families, have been deprived of their members, which have been bestowed upon towns, that in modern times have become populous and wealthy. The metropolis has obtained an additional representation of ten members, and the English agricultural districts, or shires, have an addition of sixtytwo representatives. Besides this, five additional members have been given to Wales, eight to Scotland, and five to Ireland. Altogether one hundred and forty-four members, whose places before were filled by the adherents of the aristocracy, have been added to the popular side, and by the new regulations concerning the elective franchise, a new popular impulse has been given to the whole House of Commons. This reform is (as all the alterations in the English constitution have been), a reluctant concession from those vested with power, and it has pre-

served the essential features of the old constitution. It, however, has been made upon the demand of a new power, which within a few years has appeared in a more palpable form in the councils of the nation, and which is destined hereafter to engross more and more of the authority of the government. It is a concession *to the will of the people* — the same power which extorted Catholic emancipation, and which, having effected a reform in Parliament, is now gathering strength, and concentrating its forces in order to exact new concessions and to reform other abuses, which more directly affect the welfare of the community. During the progress of the reform bill, it was conceded on all sides, that its passage was necessary in order to prevent a popular commotion. The King, in dissolving the last Tory Parliament, said, that he was induced to resort to that measure 'for the purpose of ascertaining the sense of his people' on the question of reform; the Whig ministers in proposing the *bill* stated, that the measure of reform therein provided, was the least that would satisfy the public demand: the 'Waverers,' in departing from their uncompromising opposition, acquiesced in the necessity of yielding to the will of the nation; and finally the Tory aristocracy, with the Duke of Wellington at its head, by shrinking from the responsibility of forming an administration not pledged to reform, acknowledged the existence and the supremacy of this power, that was hostile to the very prin-



ciple of prescription, upon which the British constitution is established. This is the principle that has been subverted by the late reform, which, while acknowledging its absurdity, does not repudiate it except in particular cases. With reference to Whitechurch, Fowey, and Wootton Bassett, each having about 1800 inhabitants, it is established that their representation cannot be longer tolerated, not because of any particular abuses in those boroughs; but because it is repugnant to a principle now incorporated in the British constitution: while Banbury and Malton, with only a few more inhabitants, may each send their two representatives, because they have a right by prescription to be represented. In the counties, the same total disregard of principle is exhibited. The shires of Devon, Surrey and Kent, each with nearly half a million of inhabitants, are entitled by the bill only to twelve members,—the same number with Cumberland, Northampton and Leicester, whose united population scarcely amounts to 550,000. Again, the West-Riding of Yorkshire, with nearly one million of inhabitants, is put on the same footing with the North-Riding with only 190,000. These inequalities show the inconsistency of the late reform in departing from the principle of prescription, without substituting another: or in fact condemning that principle, as to certain parts of the constitution to conciliate the people, and yet seeking to sustain by it, other parts of the constitution equally

odious to the nation and defensible upon no other ground than immemorial usage.

So far as any principle has been consulted in the reform, it is that representation, shall be in *some measure* proportionate to population. But in what measure, is the question? The bill indeed says, that all boroughs having less than 4000 inhabitants shall have but one representative; and that those having less than 2000 inhabitants shall be entirely disfranchised: but it does not say that all towns having 2000 inhabitants shall have one, and those with 4000 inhabitants shall have two members. It also declares, that all English counties having more than 150,000 inhabitants shall be divided, and send four members: but so far from declaring, that there shall be a representative for each 37,500 of the agricultural population of the kingdom, it has given Devonshire only one, for 124,000, and in West Yorkshire only one for 488,000 inhabitants. In apportioning power among the different points of the empire, it is still more unequal in its operation. Wales with only 803,000 inhabitants has twenty-nine representatives, of whom five were added by the late act; while Cork with 700,000 inhabitants is entitled to but two, and including the City of Cork and the other boroughs, which would swell her population to 807,000, to only eight members. Ireland, with one third of the whole population, has less than one sixth of the representation of the United Kingdom; while England with but little



more than one half of the population, has seven-tenths of the House of Commons and a still greater proportion of the House of Lords.

The bill therefore is rather an amendment, than a reform of the British Constitution. The condemned principle is still preserved in the House of Commons, and it is the sole support of the Upper House. Will this new power, which has been called in, to reform and establish the constitution of the kingdom, be content with this arbitrary and unequal distribution of representation? Will Leeds and Manchester be satisfied with the same number of members, as the insignificant boroughs that have barely escaped the fatal embrace of schedules A and B? Will they not demand a share in the legislation of the kingdom, in some degree proportionate to their wealth and population; and will they not be sustained in the demand by all the unrepresented towns and the larger counties, which have even now only been partially enfranchised? Will they not in short demand a new reform and a second application of the disfranchising schedules? They certainly will, and while the reforming majority in the present House must find it difficult to answer their arguments; the increased number of popular representatives will give weight and efficacy to their demands. They have now found a spot, on which to place their lever, and it will not require any extraordinary effort to move the government at their pleasure. The reform

therefore cannot stop in the House of Commons. That indeed is but its commencement, or rather, it is vesting in the popular party the means of effecting a reform in the abuses, which in that country have been accumulating for ages, until they press with intolerable weight upon all classes except the nobility. With this power in their hands, will the people of England continue as for years they have done, 'to coin their hearts and drop their blood for drachmas,' in order to pay the exactions of the church and state? Will the middling classes be contented to see so large a portion of their income go into the Exchequer, to maintain the extravagance of the government? Will the farming interest forever suffer a tithe of the annual produce to be appropriated to support an idle and pampered priesthood? Will the day laborer or the operative in the factories, who is almost on the verge of starvation, see without murmuring, his wages depressed to the lowest point, in order to preserve that national faith which is pledged to the fundholder? Will even the more liberal and enlightened patriot strive to sustain a state of things, that degrades England from her rank as a first rate power: prevents her from asserting her rights in the adjustment of European affairs; and when the cause of suffering humanity in Poland and the safety of her Indian empire alike require her to arm, binds her to keep the peace under the penalty of £800,000,000 sterling? Will Ireland, injured as she has been by unjust and

partial legislation, and exasperated as she is by intolerable distress, turn a deaf ear to those, who tell her that her misery is owing to her connexion with, and dependence upon England? Will the unrepresented colonies, with their trade diverted from its natural channels, to support the navigation of the mother country, always submit to legislation, whose tendency is to advance the interests of that country, at the expense of all its dependences?

These are the questions, that the mis-government of that country has prepared for solution, and there is but one answer in the book of fate. The House of Lords may, and it doubtless will seek to uphold the old abuses. But what will the opposition of three or four hundred gentlemen, assembled in one corner of Saint Stephen's chapel, avail against the fiat of the Commons of England? The time has past, when that body represented the real force and power of the realm: when the great Earl of Northumberland, and Warwick, 'the setter up and puller down of Kings,' could each bring into the field a body of retainers more numerous than the royal forces; and when the barons of England were military chieftains and their tenants feudal dependants. The House of Peers is now destitute of all real power, except wealth, and it would not be difficult to find as much wealth in an equal number of Commoners. The reason of their existence as a third estate is annihilated. The late reform has declared, that prescription is not a sufficient reason for the rep-

resentation of decayed boroughs; and it will not require any profound logic to shew, that the same argument is as applicable to the House of Lords as to Old Sarum. Let that body oppose its veto to the abolition of tithes; to the reduction of the public expenditure, or to any reform willed by the nation, and it would not be surprising, should the Commons again vote as they did in 1649, 'the Lords to be useless and dangerous, and therefore to be abolished.' This will probably not speedily happen. The English Peers with all their arrogance and folly, have more sagacity than the old French nobility. The late collision with the Commons on the question of reform, has taught them a lesson, that will not speedily be forgotten. They know their want of power; and their opposition to the measures hereafter to be proposed by the reformers, will be secret rather than open, and will partake more of the temporising character of 'the waverers,' than of the decision of the Duke of Wellington.

The effects of the new influence introduced into the government, have already appeared in the passage of several important laws, before the dissolution of the last unreformed Parliament. A reform has been effected in the Irish tithe system, which although not complete nor altogether satisfactory, will afford some relief to that distracted country. An organized opposition had for some time existed there to the payment of tithes, which had effectually suspended their collection and compelled the clergy them-

selves to ask the interposition of government, to collect the dues of 1831, which in some counties were entirely unpaid. With the view of affording a remedy to the existing evils, the Marquis of Lansdowne, in behalf of the government, proposed on the 8th of March, 1832, certain resolutions, in which, after stating the fact of the systematic opposition, it was proposed, that the Lord Lieutenant should advance to the clergy a certain portion of the unpaid tithes for 1831, and that the government should be empowered to collect the arrears for that year, first to repay the advances and then to pay over the residue to the claimants. As a part of these resolutions, it was also proposed to pledge the government to an alteration of the existing system, having in view the extinction of tithes and subjecting the lay proprietors to the intended alterations.

The Duke of Wellington and Lord Eldon expressed their disapprobation of the resolutions; but the Archbishop of Canterbury and the Bishop of London, advocated them in behalf of the church, and they were carried without a division.

The same day Mr Stanley moved, that the House of Commons go into committee on the same subject, which was carried; and on the 13th of March, he brought forward resolutions similar to those adopted in the House of Lords. This plan of the ministers was opposed by the Irish members, who were in general hostile to the existing church establishment, and who declared

that it was inexpedient to substitute the government for the clergy; but the resolutions were carried, and a bill was ordered to be brought in to carry the scheme into effect. A bill was accordingly brought in to empower the government to relieve the clergy, and to assume the collection of the tithes for 1831. This was passed into a law; and on the 5th of July, Mr Stanley brought forward the new system for the final settlement of all questions connected with Irish tithes. This consisted in three bills, the first of which related to the composition of tithes. By the old law the composition was voluntary, and the irritation of the peasantry was increased by the unequal rate of tithes between adjoining parishes; one of which might have compounded, while the other was not permitted to make any composition. Another objection to the old composition was, that it was temporary and if at the end of twentyone years the landholder refused to pay the additional sum demanded by the clergyman, the previous composition was no longer regarded as in force. The remedy proposed was to render the composition compulsory, and where parishes neglected to compound by a given day, to fix the compensation of the clergyman by a public commissioner. It was also to be permanent, although subject to a new valuation every seventh year, according to the average price of agricultural produce during that period.

The tax was also removed from the subtenant and cottar, and placed upon the last holder



of the land, having an unexpired lease of ten years, of whom it was to be recovered by action instead of distress and when one year in arrear by appointing a receiver of the rent. The second bill constituted the bishop and beneficed clergy of each diocese a corporation, for the purpose of collecting the tithes for the whole body, and dividing them in the proportions, to which the respective parties would be entitled. In this manner all collision between the individual clergyman and his parishioners would be avoided, and the affairs of the diocese would be managed by a corporate body. The third bill provided for a commutation of tithes upon the principle, that the owner of the land might pay a certain sum as an equivalent for a perpetual discharge of his land from tithes, and the amount paid was to be funded for the maintenance of the church. To facilitate this redemption, owners were allowed to borrow the money on mortgage, and as tithes at present were a charge upon the land, a mortgage for the redemption money was declared to be a prior lien to subsisting incumbrances. It was also proposed, that the government should loan money for that purpose, and that it should also be at liberty to purchase the claim of the clergy for tithes. This system recognised the claim of the church and adopted the only means for enforcing that claim. The government assumed it, as to the arrears for 1831, and thus put an end to the constant collision between the clergymen and their parishioners,

which was fast destroying their influence. It then introduced a compulsory and permanent composition, and in effect made the landlord liable for the payment. In this manner the motive of the peasantry to combine against the collection of tithes was taken away, and the petty exactions of the proctor and the oppression of the old mode of collection were destroyed. The bills for the collection of the arrears of 1831, and for the composition of tithes were passed into laws, although earnestly opposed by the Irish members, who contended, that the system should be altogether abolished. They were however supported by the English members of both parties, and became part of the law of the land. They will undoubtedly do much in mitigating the severity and oppression of the tithe system in Ireland, as they shift the burthen from the poorer to a wealthier and less numerous class. Discontent therefore will be less loud and for the present less formidable. They however still adhere to the fatal error of making a Catholic community support a Protestant church, and so long as this fundamental error is retained in the policy adopted towards Ireland, so long she will be dissatisfied and rebellious. The other bills, and by far the most important, establishing ecclesiastical corporations and for the redemption of tithes, are parts of the new scheme, and if carried into full effect, they will change the whole nature of the controversy between the Irish People and the Protestant church, by making the latter a great land



proprietor and freeholder instead of an income tax gatherer. Its property will then become the object of attack; but it will be far less obnoxious than now, when it makes its semi-annual tithe exacting visits to each family in the kingdom. These bills, however, were not passed into laws at the spring session of 1832, for want of time to mature so radical a change in the nature of the Irish church establishment. Another measure brought forward, with the view of preserving the tranquillity of Ireland, was a law prohibiting party processions, and all assemblies in which music was employed and arms and banners displayed, and giving power to a single magistrate to convict and fine. Although this act was general in its terms, it was mainly directed against the 'Orangemen,' and of course was warmly opposed by the Irish Tory members. It however became a law and will do much to restrain that Protestant fanaticism, which in Ireland has gone so far to make us lose sight of Catholic intolerance. A plan was also brought forward by the ministers to promote the education of the lower orders of the Irish, and no inconsiderable portion of the session was judiciously devoted to one of the most effectual modes of regenerating that island. These measures came too late to ensure immediate tranquillity. Injustice persevered in too long produces a feeling, that cannot be suddenly allayed, and when one concession is made to intimidation, it naturally excites the hope of extorting further concessions by the same

means. The agitators of Ireland therefore prosecuted their designs with the same vigor as before; and while the course adopted by the government in reference to tithes furnished them with an excuse for demanding a repeal of the Union, they found in the famishing state of the population, and in the lawless habits engendered by past misgovernment — the fit materials for agitation and civil discord. The social condition of Ireland was now completely disorganized. The combinations against the collection of tithes had become so extensive, as to bid defiance to the law. The leaders recommended passive resistance, but the unreasoning mass, never remarkable for self control, soon found this passive resistance too tame to express their feelings, and when they were deterred by superior force from violently opposing those, who executed the law, they turned their animosity against their fellow subjects, who lent their aid in any manner to its execution. Those who paid tithes or purchased cattle distrained by the Proctor, or even bid at the sale, were excluded from the rights of humanity. Society seemed banded against them. Their supplies were cut off. No man would sell to them or buy from them, or even labor in their employ. This was the passive resistance, that was fast achieving a victory over the established church. But a people so enthusiastic and so little under the control of reason as the Irish, could not sufficiently express the emotions, that were swelling within

to follow out this effectual mode of delivering themselves from their grievances. All persons connected with the tithe system appeared to their ardent imagination in the light of deadly enemies, and their exclusion from social intercourse was soon followed by attacks upon their safety. Scarcely a week elapsed, which did not announce the murder of some person connected with the collection of tithes, or some poor countryman, who conceived himself bound to obey the law. In the more disturbed districts large bodies of men assembled, mostly by night, but sometimes in the face of day, to make their domiciliary visits, compelling the surrender of arms and punishing any violation of their arbitrary laws, or any acquiescence in the claims of the church. In the beginning of February, the Irish government found it necessary to proclaim certain parts of Tipperary county to be in a state of disturbance, and by the middle of the month the greater parts of Kilkenny and Queen counties were declared to be in the same state, and placed under the Peace Preservation act. The ministers were called upon to take stronger measures to meet the emergency; but they had determined, at least in the first instance, to try the efficacy of the ordinary laws for the suppression of violence. A special commission was accordingly issued for Queen's county, and several persons indicted for murder, were ordered for trial at the Kilkenny assizes. But although some effect was produced in the former county, in the latter the law was found to be utterly powerless. The witnesses were afraid to testify, and the jurors to condemn, and to such a pitch was intimidation carried, that in some cases where cold-blooded murders had been committed, no person could be found bold enough to lodge a complaint against the perpetrators. After one experiment had been made at the March assizes, the Court ordered the other trials to stand over to the assizes in July; but no better state of feeling then existed, and the public prosecutors were compelled to abandon the prosecutions, and to permit the murderers to escape unpunished. Such a result, so far from exciting a sentiment of horror was hailed with acclamations and celebrated by public rejoicings, and so accustomed were the common people to regard these legal proceedings as a contest with the church, that they entirely overlooked the sanguinary and atrocious character of the crimes which had been perpetrated. Even after the passage of the acts establishing the new system, the payment of arrears was obstinately resisted, and every effort was made to prevent the valuations, although enforced by all the power of the government. Conflicts between the military, police, and the peasantry, were constantly occurring, and Ireland seemed as far from being pacified under a Whig as under a Tory administration. Concession after concession has been made, and to no purpose. Catholic emancipation, which for years was the great desideratum, has not allayed the discontent.

Parliamentary reform, which has done so much to pacify England, has not in the least degree satisfied the vehement spirit which pervades Ireland. The modification of the tithe system has only changed the object of the popular resentment, and directed it from the church against the government; and the pacification of that unhappy country seems as distant as ever. All the difficulty in this ostensibly hopeless case arises from the incompatibility of the claims of England with the rights of Ireland. The former seeks to support her Protestant church by exactions from a Catholic community, and while this injustice makes part of the policy of the government, so long will every administration in power be equally unsuccessful in calming the unappeasable spirit that pervades the Irish people.

The West India Colonies too began to manifest an equally discontented spirit.

The Grey administration had found it necessary in compliance with the sentiment of the British nation, to take some steps towards the emancipation of the negroes in these colonies. The determination to proceed with this policy cautiously but steadily, had been announced by the ministers in Parliament. Accordingly in November 1831, an order in council was issued fixing the hours of labor, appointing slave protectors to attend to the rights of the negroes as against their masters, and containing other regulations intended to gradually prepare the slave for emancipation. These orders were to be

enforced in the crown colonies, by the power of the government, and in the other colonies by imposing higher duties on the produce of the colonies that refused obedience. These orders were regarded in the colonies as highly injurious to their interests, and obedience was altogether refused in both islands. In Jamaica, the House of Assembly in their answer to the governor's speech said, 'We observe your Excellency has received his Majesty's command to submit further propositions to us respecting the future regulation and government of our slaves. We should, however, be wanting in candor to your Excellency, did we not state, that all measures for the further amelioration of the slave population, must emanate from ourselves.' The governor sent them a message regarding the slave registers. They answered: 'The House have considered your Excellency's Message containing some complaint of his Majesty's principal Secretary of State for the Colonies, relative to the slave registry returns sent from this island last year. This is a subject which the House considers should be settled between viscount Goderich and the patentee of the office of our island secretary. The House considers the transmission of the slave registry to England, a wasteful expenditure of public money, and this House will never aid in any measure, which tends to perpetuate an odious enactment.' In Trinidad, a crown colony, a great meeting of the planters was held to op-



pose the commands of the crown respecting the treatment of the slave population. At this meeting the parties agreed to a protest against the Order in Council, a petition to the King for its repeal — a petition to the House of Commons, — and a petition to the House of Peers for the same object. With this protest the chairman, accompanied by a deputation, immediately proceeded to the Governor to propose a mitigation or change in the order. The Governor had no power to comply with their request, but he offered to transmit their representations to the government at home. On the return of the deputation with this answer, several resolutions were proposed, and some violent speeches made. One planter ‘proposed a remedy, — the only one, he contended, which could be efficacious, that until redress was afforded, they should refuse to pay taxes.’ ‘At St Lucia the schism between the Governor and the colonists proceeded so far, that the latter shut up their stores and refused to transact any business, while the former accused them of conspiracy, and laid an embargo on the shipping.’

The West India company presented a protest against the Order in Council, and this was followed up by a petition from a public meeting of persons interested in the colonies, praying a full and impartial inquiry into the condition of the slaves, and the usages of the colonies, and the best mode of meliorating that condition consistently with the interests of the slaves, and the rights of private property. This petition was pre-

sented by the Earl of Harewood (April 17th) and the ministers agreed to grant a committee, and in the mean time, to suspend the order in council. Mr Fowel Buxton, while this Committee was sitting, sought to give a different direction to the House of Commons, by moving on the 24th of May, ‘that a select committee be appointed to report the necessary steps to effect the extinction of slavery throughout the British dominions, at the earliest period compatible with the safety of all classes in the colonies. To this Lord Althorpe would not agree, unless it was amended by adding the words, ‘in conformity with the resolutions of May 15th, 1823.’ Mr Buxton refused to accede to this amendment, because he thought those resolutions had in fact delayed the emancipation of the slaves. But the House, on motion of the ministers, amended the motion by a large majority, and the appointment of a committee was then postponed. These movements on the part of the government were not without effect upon the slaves in the colonies. Freedom was the boon they expected, and knowing not exactly in what it consisted, they concluded, that it at least brought with it exemption from stripes and labor. Every hour’s delay was, consequently, endured with impatience, and in the month of December 1831, the negroes in Jamaica, who had been for some time secretly organized, showed strong symptoms of discontent. A few days before Christmas the slaves on several plantations refused to go to their work, and having supplied



themselves with arms, rose in open rebellion. Almost every estate in the parishes of Trelawney, Portland and Saint James, were devastated, and the buildings and produce committed to the flames. The insurgents did not confine their hostility to the whites, but destroyed in the same spirit, the houses and small settlements of the free people of color. On the 30th of December, it was found necessary to proclaim martial law. The militia were called out, and aided by about 300 regular troops, they succeeded after several engagements, in quelling the rebellion. By the middle of January quiet was restored, although many of the negroes still remained in the woods, and martial law was still in existence. The damage perpetrated in this insurrection was enormous, and a grant was made in parliament of £1,000,000 to remunerate the sufferers, and those who had suffered by the hurricane in Barbadoes, Saint Vincent and St Lucia. The repugnance of the planters to the policy of the British government concerning the slaves, was in no degree diminished by this liberality, and no steps were taken during the year, which seemed likely to bring about a reconciliation between parties whose views were so discordant.

No material reform was effected in the public expenditure, although the abolition of certain sinecures in the Court of Chancery, the abolition of the Scotch Exchequer, the consolidation of the Navy Board and the annual reduction of £129,634, in the army expenditure, £100,000 in

the ordnance estimates, and of £252,000 in the civil list, all indicated that a better influence existed in the councils of the nation. That influence was exercised, still more to the advantage of the public, than even in this financial reform, by promoting the passage of laws tending directly to the improvement of British jurisprudence. Among these laws was one regulating schools of anatomy, in which the triumph of reason over long cherished prejudices, was complete. By this law, dissection was authorized in public schools, and it was no longer to be made part of the punishment of criminals, but persons having the lawful custody of bodies for the purpose of interment, were authorized to permit anatomical examination. The having possession of dead bodies by licensed surgeons was to be no longer unlawful, and the study of the human system was no longer a hazardous and disgraceful pursuit. The sanguinary character of the English criminal code was also meliorated by abolishing the punishment of death for stealing from a dwelling house to the value of £5 or more, for stealing domestic cattle or sheep, or for killing them with intent to steal any part thereof, or for forgery in Scotland or Ireland, except in cases of forgery of wills or powers of attorney to transfer stock or receive dividends. Other bills of an equally liberal character were brought forward, and steps were taken to procure information for the maturing of several important measures, but so much of the session had been taken up in

the discussion of parliamentary reform, that they could not be carried through, and the ministry properly determined to refer them to the wisdom of a *reformed* House of Commons, expressing as it necessarily must more fully the public sentiment. After the supply bills had passed, it was accordingly determined to prorogue parliament as a preliminary to its dissolution. This was done by the King in person on the 16th of August, in the following speech—

‘My Lords and Gentlemen—The state of the public business now enabling me to release you from a further attendance in Parliament, I cannot take leave of you without expressing the satisfaction with which I have observed your diligence and zeal in the discharge of your duties during a session of extraordinary labor and duration.

‘The matters which you have had under your consideration have been of the first importance; and the laws in particular which have been passed for reforming the representation of the people, have occupied, as was unavoidable, the greatest portion of your time and attention.

‘In recommending this subject to your consideration, it was my object, by removing the causes of just complaint, to restore general confidence in the Legislature, and to give additional security to the settled institutions of the State. This object will, I trust, be found to have been accomplished.

‘I have still to lament the continuance of disturbances in Ireland, notwithstanding the vigilance and energy displayed by my Government there, in the measures which it has taken to repress them. The laws which have been passed, in conformity with my recommendation at the beginning of the session, with respect to the collection of Tithes, are well calculated to lay the foundation of a new system, to the completion of which the attention of Parliament, when it again assembles, will of course be directed.

‘To this necessary work my best assistance will be given, by enforcing the execution of the laws, and by promoting the prosperity of a country blessed by Divine Providence with so many natural advantages. As conducive to this object, I must express the satisfaction

which I have felt at the measures adopted for extending generally to my people in that kingdom the benefits of education.

‘I continue to receive the most friendly assurances from all Foreign powers; and though I am not enabled to announce to you the final arrangement of the questions which have been so long pending between Holland and Belgium, and though, unhappily, the contest in Portugal between the Princes of the House of Braganza still continues, I look with confidence, through the intimate union which subsists between me and my Allies, to the preservation of general peace.

‘Gentlemen of the House of Commons—I thank you for the supplies which you have granted to me; and it is a great satisfaction to me to find, notwithstanding large deductions from the revenue occasioned by the repeal of some taxes, which pressed most heavily on my people, that you have been enabled, by the exercise of a well-considered economy in all the departments of the State, to provide for the service of the year without any addition to the public burdens.

‘My Lords and Gentlemen—I recommend to you, during the recess, the most careful attention to the preservation of the public peace, and to the maintenance of the authority of the law, in your respective counties. I trust that the advantages enjoyed by all my subjects under our free constitution will be duly appreciated and cherished; that relief, from any real causes of complaint, will be sought only through legitimate channels; that all irregular and illegal proceedings will be discountenanced and resisted; and that the establishment of internal tranquillity and order will prove that the measures which I have sanctioned will not be fruitless in promoting the security of the State and the contentment and welfare of my people.’

Parliament was then prorogued in the usual form, until the 16th of October. On the 12th of October, it was again further prorogued by an order in council to the 1st of December, and on the third of that month it was dissolved, and writs were issued for a new Parliament returnable on the 29th of January, 1833.



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LOCAL HISTORY

AND

DOMESTIC OCCURRENCES,

FOR

THE YEARS 1831 — 32.

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## DOMESTIC OCCURRENCES.

### MAINE.

**NORTH-EAST BOUNDARY.**—The following statement in relation to the arrest at Madawasca, was made in a report of the Executive Council, November 7th, 1831.

#### PRESENT THE GOVERNOR,

Messrs Lane, Howard, Prince, Cobb, Smith, Johnson.

In virtue of a warrant from a magistrate of the County of Penobscot, the inhabitants of Madawasca, on the 20th day of August last, assembled at a place southward of the St Johns river, on this side of the line, designated by the arbiter as, in his opinion, a suitable boundary between the two governments, and proceeded peaceably to organize themselves, in pursuance of an act of the legislature of Maine, incorporating the town of Madawasca.

On the 12th day of September last, they held a town meeting for the purpose of electing a Representative, as required by the laws and constitution of this State.

For these acts, four of our citizens have been arrested by the authorities of New Brunswick, carried out of the State, and three of them, Barnabas Hunevell, Daniel Savage and Jesse Wheelock, are now confined in jail at Frederickton, in execution of a sentence pronounced against them, after the form of a trial in a court of that province.

As these citizens were arrested by a foreign power, at a place which is claimed and known to be within the limits of this State, and for the exercise of a privilege guarantied to every citizen, we have no hesitation in coming to the conclusion, that the State is bound to adopt all proper and constitutional means within its power, to procure their release.

It appears by documents in the office of the Secretary of State of this State,

that immediately on receiving information of these transactions, the facts were communicated by the Governor to Mr Livingston, the Secretary of State of the United States, with an urgent request that the proper measures might be adopted by the general government to procure the release of our citizens and to protect our territory from invasion.

To this application an answer was duly received from Mr Livingston, under date of 21st of October last, stating 'the extreme desire of the executive of the United States to conform with scrupulous good faith to the arrangement made with the minister of Great Britain for preserving the state of things as it then existed on both sides, until a final disposition could be made of the question, and it was distinctly understood that no exertion of the State authority in the parts of the disputed territory, which were actually held by the British, should interfere with this arrangement.' It further appears by the documents communicated, that although the proceedings of the inhabitants of Madawasca were supposed to be a violation of that agreement, yet prompt measures were adopted by the President through the interposition of the representative of the British Government at Washington, to procure the release of the persons who had taken part in these transactions.

We have caused an examination to be made, but no copy of the arrangement referred to can be found among the archives of the State. And though allusion is made to such an arrangement in the correspondence between Mr Clay, former Secretary of State of the United States and the late governor Lincoln, it was at that time asserted to have been violated by the British authorities, and we are satisfied that in numerous instances, it has been totally disregarded by them.

In order to show the views of the general government with regard to the measures to be adopted by this State, which are now the subject of our consideration, we refer to the following extracts from Mr Livingston's Letter before referred to. 'The president desires me to reiterate to you, his anxious desire that you would use your authority and influence to prevent any further collision with the British authorities, in the firm persuasion that the wisdom of Congress will direct such ultimate measures, as will bring the controversy to a close, consistent with the interest and dignity of the United States, and particularly, of the states interested in the question. He receives the strongest assurances from the representative of the British government, that no innovation will be countenanced on the part of its provincial functionaries; and on our part, good faith as well as the protection of the frontier, from unauthorized mutual inroads, require the same course of conduct.'

In a previous letter to the Governor, dated October 5th, Mr Livingston observes, 'the president directs me to say, that he relies on your excellency's prudence to avoid any unnecessary exertion of authority over the contested ground, and to repress as far as lies in your power, all such acts as may endanger the quiet of the bordering territory.' 'Congress will meet in the course of a few weeks, and it will be a source of deep regret if the moderation and forbearance, which have hitherto characterized the government and people of Maine, should cease to guide them, when its further continuance for so short a period is of such consequence to the nation.'

After a full consideration of all the facts and circumstances within our knowledge, in relation to the subject submitted to us, we are of opinion that every proper and constitutional measure at present in the power of the executive of this State to procure the release of our citizens confined at Frederickton, has been adopted. And if the committee have forbore to recommend more efficacious means for their immediate release, it is because they believe the State is not in possession of the constitutional power to execute them without the concurrence of the general government.

Believing that Congress, which is soon to meet, will adopt the necessary measures to bring this controversy to a close, consistently with justice, the peace of the nation, and the constitutional rights of the State, which we believe, will never

be voluntarily surrendered, and as we desire to conform to the wishes of the general government, we do not deem it expedient at this time to recommend measures which might lead to collision with the British authorities.

But from the exposed situation of our frontier settlements, and the danger to which they are subjected by encroachments from a neighboring province, we recommend that the governor be advised to issue a general order, requiring the militia of the State to hold themselves in readiness to meet such requisitions as the president may deem necessary, to protect our territory from invasion and our citizens from capture.

ISAAC LANE, *per order.*

*In Council, November 7th, 1831.*

This report, on being read, was accepted by the council, and by the governor approved.

Attest: R. G. GREENE, *sec'y of state.*

A true copy — attest:

R. G. GREENE, *sec'y of state.*

#### STATE OF MAINE.

*Head quarters, Portland, Nov. 8, 1831.*

#### GENERAL ORDER.

The security and defence of our rights as citizens of a free State, being dependent upon our military establishment, it is not less a duty than the privilege of the citizen soldier to be at all times prepared to repel the invasion of those rights, and afford his aid in the due execution of the laws of his country. The exposed situation of the frontier settlements of this State, and the dangers to which they are subjected by continual encroachments from a foreign power, having, in the opinion of the executive council, rendered it necessary that the militia of the State should be reminded that events might occur which would require their services; the COMMANDER-IN-CHIEF therefore ORDERS that the several divisions of the militia be in readiness to meet such requisitions as circumstances and the laws of the State may require, and as the president of the United States may deem necessary, for the protection of our citizens and territory.

The major generals will cause this order to be promulgated throughout their respective divisions.

*By the commander-in-chief,*

SAMUEL G. LADD, *adj't general.*

At the meeting of the Legislature of 1832, the following proceedings took place in relation to this controversy.

The people of Maine, and Massachusetts also, felt a general conviction, that

the award of the King of the Netherlands respecting the disputed boundary between Maine and the British Provinces, ought not to be acquiesced in. The General Government, however, concluded to abide by the decision, to carry that award into effect. They so expressed themselves to Mr Preble, the Agent at Washington, for Maine, who was also the Plenipotentiary sent to the Hague; and Mr Preble communicated that to the Governor of Maine, together with some offer of compensation for the acquiescence of the State in the cession of the territory in dispute.

The following proceedings then took place in the Legislature.

SECRET SESSION.

*House of Representatives — Feb. 24.*

A confidential message received from the Governor was read as follows.

*To the Senate and House of Representatives —*

I herewith communicate, confidentially, for the consideration of the Legislature, copies of two letters from Mr Preble, the agent of this State at Washington, in relation to the question respecting our north-eastern boundary, now pending before the government of the United States. By these letters I am informed that it is expected the award and recommendation of the arbiter will eventually be adopted by the general government, and that it has been proposed that Maine should cede to the United States her claim to the territory which lies northward and eastward of the line recommended by the arbiter, for an ample indemnity, in order that the general government may be enabled to make such arrangement with Great Britain as shall comport with the interest and honor of the United States.

The expediency of authorizing the agent of this State at Washington, to make an arrangement with the general government, for the purposes contemplated, is now respectfully submitted to your consideration.

The decided and unanimous opinion of our agent, and the delegation of this State in Congress, cannot fail to be received with great deference; and under existing circumstances, it is believed that an arrangement of the kind proposed will not, in any respect, compromise the honor of the State, or operate injuriously to her interest. In a pecuniary point of view, she will be amply remunerated for the loss sustained; and the principle for which she has uniformly contended, that the United States have not the constitu-

tional power to alienate any portion of the territory of the State, without the consent of such State, will not be abandoned. The adjustment of the controversy, will also relieve the United States from much embarrassment in their relations with Great Britain, and terminate those collisions with the British authorities, which, if continued, would inevitably prevent the settlement of the territory, and endanger the peace of the nation.

I would further suggest the necessity of acting with promptness upon this subject, after it shall have received that attentive consideration to which, by its importance to the honor and interests of the State, and the welfare of the United States, it is eminently entitled.

As the Governor of Massachusetts has been invited to co-operate in the measures heretofore taken by this Legislature, it may be proper that she should be requested to unite with us in the proposed arrangement, if upon consideration its adoption should be deemed expedient.

SAMUEL E. SMITH.

Council Chamber, Augusta, }  
Feb. 22, 1832. }

An order came from the Senate for concurrence, directing that the confidential communication from the Governor, together with two letters from Wm. P. Preble, our agent at Washington, be committed to Messrs Boutelle, Megquier, Emerson, Thayer, and Sweat, with such as the House may join; and the House concurred, and Messrs Clifford, Gerrish, McCrate, Williams, Steele, Bronson, Knowlton, and Miller, being one from each county, were joined on the part of the House.

*Tuesday, Feb. 23.* The Joint Select Committee, to whom was referred the confidential communication of the Governor, of February 22, made a report, accompanied by the following preamble and resolutions, which were read once, and to-morrow, at 9 o'clock, assigned for a second reading.

STATE OF MAINE.

*In the year of our Lord one thousand eight hundred and thirty-two.*

Resolve respecting the territory lying north and east of the rivers St John, and St Francis.

*Whereas*, information has been communicated by the agent of this State, at Washington, that it is proposed that Maine should cede to the United States her claim and jurisdiction over that portion of the territory which lies northerly of the line recommended by the arbiter,



for an ample indemnity, in order that the United States may be enabled to make such an arrangement with Great Britain as may best comport with the interest and honor of the United States.

*And whereas*, the government of Maine has repeatedly declared, and now declares, that the right of soil and jurisdiction in said territory, according to the provisions of the treaty of 1783, is in the State of Maine, as a sovereign and independent State, and has denied and continues to deny the right of the general government to cede the same to any foreign power without the consent of Maine, and has communicated resolutions to that effect to the general government, and has claimed of that government the protection guarantied to every State by the Constitution of the United States.

*And whereas*, the Legislature of Maine is disposed to regard the proposition aforesaid as emanating from a disposition on the part of the general government, to promote the interests and preserve the peace of the nation, without violating the rights of Maine, or disregarding the obligations resting upon the whole union, to protect each State in the full enjoyment of all its territory and right of jurisdiction, and willing to meet the proposition in a like spirit, in which it is believed to have been made:

Therefore, *Resolved*, That upon the appointment by the president of the United States, of a person or persons to enter into a negotiation with this State, for the relinquishment by this State to the United States of her claim to said territory, and for the cession of the jurisdiction thereof, on the one part; and for an ample indemnity therefor, on the other part; and notice thereof being communicated to the Governor, the Governor, with the advice of council, be, and he is hereby authorized and requested to appoint three commissioners on the part and behalf of this State, to treat with such person or persons so appointed by the president, on the subjects aforesaid; and any agreement or treaty to be made in pursuance of this resolve is to be submitted to the legislature of Maine, for approval or rejection; and until such agreement or treaty be so submitted to, and approved by the Legislature of Maine, nothing herein contained shall be construed, in any way, as implying the assent of this State to the line of boundary recommended by the arbitrator, or to the right of the general government to adopt or sanction that line instead of the line described in the treaty of 1783.

*Resolved*, That the Governor be requested *forthwith* to communicate the foregoing preamble and resolutions confidentially to the agent of this State at Washington, and also to the Executive of the commonwealth of Massachusetts, *to afford to that commonwealth the opportunity of adopting such measures as she may consider expedient in relation to her interests in said territory.*

[The parts in italics were added as amendments, and thus amended, the resolutions were adopted and approved by the Governor.]

On motion of Mr Dummer,

*Ordered*, That the Governor be requested to communicate (confidentially to this house), *all* correspondence between the Executive and Wm. P. Preble Esq, our agent at Washington, on the subject of our north-eastern boundary, and the accompanying papers.

The chairman of the joint select committee, on the part of the House, was directed to communicate the foregoing order to the Governor.

*Wednesday, Feb 29.* The preamble and resolutions respecting the north-eastern boundary were read a second time.

The following Message was received from the Governor, and read, together with the accompanying papers.

*To the Speaker of the House of Representatives:*

Agreeably to the request of the House of Representatives, I herewith communicate *confidentially*, for their consideration, copies of all the *official* letters of Wm. P. Preble, the agent of this State, at Washington, in relation to the subject of the north-eastern boundary, together with the documents accompanying the same, which were received before my last confidential communication, as well as those received since, with the exception of those before communicated, and a letter dated Feb. 20, No. 2, and marked 'private and confidential,' communicating certain documents now before the general government, which cannot consistently with my public duty, and without a violation of confidence, be formally laid before the Legislature. But I have placed these papers in the hands of the chairman of the committee on this subject on the part of the House of Representatives, to be used as in his discretion shall appear proper and consistent with the public interest and the honor of the government.

I also communicate a copy of a letter directed to Mr Preble, from John Anderson, Rufus McIntire, Leonard Jarvis,

Cornelius Holland, James Bates, and Edward Kavanagh, and a copy of a letter from Geo. Evans, Representative in Congress from this State, in relation to this subject.

SAMUEL E. SMITH.

Council Chamber, Feb. 1832.

Mr Fessenden moved to amend, by adding the following provision to the first resolve, viz.

*Provided*, That an appointment of said commissioners shall not be made, until the same shall have been assented to by the legislature and executive authorities of the commonwealth of Massachusetts.

On motion of Mr Kent, the secret session was closed before the question was taken on the proposed amendment.

*Thursday, March 1.* The House resumed the consideration of the amendment proposed by Mr Fessenden, and the question upon adopting the same was taken by yeas and nays, and decided in the negative. Yeas 33, nays 128.

Mr Dummer moved to amend the resolves, by adding thereto, the following preamble and resolve.

*Whereas*, this State has recently invited the co-operation of Massachusetts in sustaining the rights of Maine to her territorial possessions, — and whereas, Massachusetts has promptly come forward and instructed her Senators, and requested her Representatives in Congress to maintain the great principles which are involved in the support of the integrity of this State; and whereas propositions are now before the Legislature for a transfer by negotiation of our territory to the United States; and whereas, it is the intention of the Legislature to observe towards Massachusetts that courtesy and uprightness, which, under similar circumstances, are due from one independent State to each member of the Union; — therefore,

*Resolved*, That no appointment of commissioners on the part of this State for the purposes contemplated shall be made until these resolutions be first confidentially communicated to the Governor of Massachusetts, and an opportunity given to that State, of either assenting or dissenting to the proposed negotiation for the transfer of that portion of the soil of Maine in which Massachusetts has an interest.

The yeas and nays being taken, there were for Mr Dummer's motion 50 — against, 107.

*Afternoon.* Mr Fessenden moved to amend the first resolve by adding af-

ter the words '*indemnity therefor*,' the words 'both to this State and to the Commonwealth of Massachusetts.'

Decided in the negative, 51 for it, 109 against it.

Mr Dummer moved to amend the first resolve by striking out the words 'legislature of Maine,' and insert in lieu thereof, the words 'people of Maine,' so that it shall be submitted to the PEOPLE of Maine for approval or rejection. And the question for so amending was taken by yeas and nays, and decided in the negative — for it 61, against it 85.

The House voted to dispense with the passing the resolves to be *engrossed*, and the question upon finally passing the same, was taken by yeas and nays, and decided in the affirmative — 80 to 69.

The final vote was on motion of Mr Kent —

*Ordered*, That the Governor, with advice of Council, be authorized by proclamation, to remove the injunction of secrecy *when* in their opinion it may be done with safety to the interests of the State.

Read and passed, and the secret session closed.

In the Senate there was a steady vote of 20 against 4, in favor of the proceedings as given in the House of Representatives.

The Resolutions passed in Maine being forwarded to Massachusetts, Gov. Lincoln transmitted them confidentially to the Legislature, and by their direction addressed a letter to Gov. Smith, which, with the answer, is here inserted.

*Executive department of Massachusetts.  
Boston, March 13th, 1832.*

SIR: In compliance with a request of the Legislature of this commonwealth, expressed in a concurrent order of the two branches, a copy of which I have the honor herewith to transmit, it is made my duty to ask of your excellency to furnish, *for the information of this government*, copies of all the correspondence between the governments of the United States and the State of Maine, and copies of any communication from the agent of the State of Maine at Washington, in relation to the territory north and east of the St Johns and St Francis rivers, which were the occasion of the recent proceedings of the Legislature of Maine, confidentially communicated in their resolutions, which accompanied your letter of the 5th inst. The equal right of property which this commonwealth has in common with Maine, and

the earnest, and I may be permitted to add, generous manifestation of sympathy and interest by this government in the assertion and vindication of the jurisdictional sovereignty of the sister State to the territory in dispute, warrant a confident expectation, that the desired communication will frankly and cheerfully be made.

I pray you also to be assured, that in view to the immediate adjournment of the legislature, after an unusually protracted session, a compliance by the return of the special messenger, who is charged with the delivery of the despatch, and to wait your excellency's reply, will be very gratefully appreciated.

I have the honor to be, with sentiments of the highest respect, your obedient servant,

LEVI LINCOLN.

*His Excellency Gov. Smith, of Maine.*

*Executive department of Maine.*

*Augusta, March 15th, 1832.*

SIR: I have the honor to acknowledge the receipt of your excellency's letter of the 13th of this month, requesting to be furnished with copies of all the correspondence between the government of the United States and this State, and copies of any communications from the agent of this State at Washington, in relation to the territory north and east of the rivers St Johns and St Francis, which were the occasion of the recent proceedings of the Legislature of this State, confidentially communicated to your excellency.

The only correspondence which has been had with this department, in relation to these proceedings, is contained in letters from Mr Preble, the agent of this State at Washington, expressing his opinion in regard to the expediency of the proposed arrangement, and that of the Representatives of this State in Congress, accompanied also with letters from them directed to himself. In these letters they also state the grounds of their opinion, which they have formed from circumstances unofficially within their knowledge. These communications are considered as *private* and *confidential*, rather than as *official documents*; and I do not consider myself at present authorized to make them public without the permission of the persons from whom they were received.

I make these suggestions from an anxious desire to comply with the request communicated to me by your excellency, so far as can be done consistently

with my official duty and the public interest.

The measures which have been so promptly adopted by our parent commonwealth, in favor of the claims of this State to the territory in question, cannot fail to be gratefully received, and will tend to strengthen the friendship and good understanding, which, it is to be hoped, will ever continue to exist between the two States.

With the highest respect, I have the honor to be, your obedient servant,

SAMUEL E. SMITH.

*His Excellency Levi Lincoln.*

THE TARIFF.—The following resolutions passed the House of Representatives, by a vote of 87 yeas to 50 nays:

*Resolved*, That in the opinion of the Legislature of this State, the near approach of the period when the national debt will be extinguished, renders it not only proper but necessary that the present tariff be so reduced that the revenue accruing shall be no more than is sufficient for the expenditures of the government.

*Resolved*, That the reduction of the duties on imports, especially on those articles which are consumed by the laboring class of the community, would relieve the people of the United States from the burdens imposed upon them by the present unequal, unjust, and oppressive tariff system, and would tend to restore harmony to the Union.

*Resolved*, That a copy of these resolutions be transmitted to each member of the delegation of this State in Congress, and that the senators from this State be instructed and the Representatives be requested to procure a modification of the existing tariff, so as to conform to the views expressed in the foregoing resolutions.

#### ELECTION for Governor in 1831.

Smith, (administration)	28,438
Goodenow, (opposition)	22,005
1832.	
Smith,	31,148
Goodenow,	27,356

LEGISLATION.—Forty seven public Acts were passed by the Legislature at its session held in January 1832, among which, are the following:

An Act for the encouragement of agriculture and manufactures, by which, provision is made for the payment of \$300 annually from the treasury to each agricultural or horticultural society in the State, provided an equal sum be rais-



ed by the society, and that no more than \$300 be given to each county. The money is to be offered as premiums to those improving the breed of cattle or introducing new plants, trees, or agricultural implements, &c. The persons receiving premiums are to furnish the society with an account of the mode pursued in cultivating their land, and of the improvement, &c, which is to be transmitted to the legislature for publication.

An act to encourage the destruction of bears, wolves, wild cats, and loup-cerviers. Five acts for the preservation of certain bridges, by inflicting a fine of \$3 for passing them faster than upon a walk.

Two laws for the inspection of beef, pork, and pickled and smoked fish.

An act authorizing the transfer of any ministerial fund, existing before the organization of the State, from the trustees to the municipal officers of the town, who are constituted trustees and are authorized to apply the same to the support of common schools. This however is not to exempt the town from raising the ordinary annual sum for the support of common schools.

An act concerning the militia, requiring the town clerks to supply them with powder at the expense of the State; prescribing the mode in which the clerks shall prosecute for fines, regulating courts martial, and exempting all persons above 35 from duty.

An act authorizing Sheriffs, &c, who may have arrested a prisoner, to convey him to prison by the most convenient route, even if it pass through another county.

An act prescribing a mode to appoint guardians of the estates of spendthrifts.

An act for the government of the State's prison, and providing for a Sunday School within its limits.

An act providing for the vaccination of the inhabitants of the State. A constant supply of *virus* is to be kept at Portland, and to be distributed gratuitously throughout the State.

The municipal officers of each town, and the assessors of plantations, are required to cause some proper person within eight months after the passage of the act, to visit every family in their respective towns or plantations, and to vaci-

nate all persons who do not object thereto.

# RECEIPTS AND EXPENDITURES FOR THE YEAR 1831.

## Receipts.

Cash in the Treasury, December 31, 1831.	6,906,68
State tax	50,196,83
Tax on banks	16,750,00
Justices' Fees, and duties on commissions	5,043,04
Sales of Public lands	2,452,16
Fines, forfeitures and bills of costs	247,43
Massachusetts claim	132,200,00
Notes and interest on money loaned	813,12
Loans under resolve of the Legislature	33,434,29
Lotteries legalized	5,524,54
Miscellaneous	2,833,29
Total receipts	\$256,401,78

## Expenditures.

Salaries of officers of Government	15,119,90
Grants and Annuities	4,400,00
Deaf and dumb Asylum at Hartford	1,060,00
State debt	76,409,29
Interest on State debt	3,888,91
Council, Senate and House of Representatives	36,811,00
State printing, Stationary, Indians, &c.	15,438,72
Costs in criminal prosecutions	6,454,86
Quarter Master General and State Arsenal	1,048,03
State prison	10,580,41
Land Agent, Pensions, Roads, &c.	12,460,79
Bank stock and loans to Banks	28,750,00
Lotteries	5,210,03
Public buildings	30,434,29
Miscellaneous	3,910,60
Total expenditure	\$251,976,83
Cash in Treasury, December 31, 1831	4,424,95
	\$256,401,78
State debt 1831	53,000,00



## NEW HAMPSHIRE.

**ELECTION.**—The Legislature of this State met at Concord on the first Wednesday in June. The Senate chose Benjamin M. Bean, President. In the House of Representatives, Franklin Pierce was elected Speaker, having 205 votes of 208. The whole number of votes legally returned for Governor was 39,233; of which Governor Dinsmoor had 24,167, and was re-elected. Ichabod Bartlett had 14,920, and there were 146 scattered.

**LEGISLATION.**—The legislature at the preceding session, June, 1831, passed twentyeight public acts and eleven resolutions. Among them was,

An act giving Equity powers to the superior Court in all cases, where any personal property shall be withheld from the owner, so that they cannot be relieved, and the court is authorized to order the same to be given up, or to compel such disclosures and make such orders, &c, as equity shall in such cases seem to require. The court is also authorized to determine in equity 'all disputes between co-partners, joint tenants, and tenants in common and their legal representatives,' in such cases where there is no adequate remedy at law, and is vested with powers necessary for this purpose.

An act extending the limits of the jail yard to the limits of the respective counties in which such jails are situated. Persons hereafter committed to prison on execution founded on contract, are permitted to have the liberty of the jail yard no longer than one year; if within that time they shall not take the benefit of the poor debtor's oath, pay the debt, or be otherwise legally discharged, they shall be liable to go into close confinement. Any person arrested upon execution shall, on giving bond as if he were actually committed, be discharged from the arrest, and shall have the liberty of the jail yard and other privileges, as if he had actually been committed and given bond as now provided by law. No female shall be arrested either on mesne process or on execution founded upon contract.

An act authorizing the Court of Common Pleas, where a new highway is to be laid out, provided the highway is of general public utility, and that the expense of constructing it is burdensome to any town, to order such portion of the expenses incident to such town as may seem reasonable, not exceeding one half

of the whole expense, to be paid by the county.

An act providing that when the tenant or occupant of any house, &c, shall hold, even after notice in writing to quit, the landlord may summon him before a justice of the peace, and if the tenant shall neglect to appear, or if it shall be considered by the justice that the landlord hath sustained his complaint, then judgment shall be rendered, that the complainant have possession of the premises and for his costs, and thereupon the complainant shall be entitled to a writ of possession. A right of appeal to the Court of Common Pleas is reserved, but the appeal must be claimed within two hours from time of rendering the judgment. If the title to the premises is brought into question by the pleadings, the action is to be entered in the court of Common Pleas. All 'leases at will, and tenancies at sufferance' may be terminated by either party, after giving to the other party three months' notice; and where the rent shall be payable more frequently than quarterly, 'the notice shall be sufficient, if it be equal, to the time between the payments thereof;' but in all cases of neglect to pay the rent due, seven days notice to the tenant shall be sufficient.

A resolution was passed by this Legislature giving consent to an appropriation of three thousand dollars, made by the legislature of Maine, for the purpose of repairing the road in this State leading from Maine through the notch of the White Hills to Vermont.

An act authorizing any married woman whose husband is under guardianship, and is seized in her right of any real estates in this State in common with 'any other persons or corporatives, to join with the guardian of her husband, in making partition with the other tenants in common.'

A resolution was passed by which the Senators of the State in Congress, were instructed, and the Representatives requested, to use their exertions to procure the passage of a law for the more perfect organization of the militia. The Governor was requested to transmit copies of this resolution to the Governors of the other States, to be submitted to the legislatures thereof for their consideration.

The preamble of a resolution which was passed, states, that the legislature of Vermont has authorized the executive

of that State to adopt such measures in conjunction with the executive of New Hampshire, as may be deemed expedient to ascertain the boundary line between the two States, and to appoint commissioners to meet commissioners on the part of New Hampshire, to define such line; the preamble then declares that this boundary line has for a great number of years been well defined, 'and the river Connecticut, for the whole extent of the line between the two States, conceded to be within the limits and exclusive jurisdiction of the State of New Hampshire; and that the legislature of New Hampshire is not sufficiently informed of the nature of the difficulty to warrant the appointment of commissioners at the present session. It was therefore resolved, that the Governor be requested to transmit to the executive of Vermont a copy of this preamble and resolution, and to communicate to the legislature of New Hampshire at the next session, any information he may receive relative to this subject.

An act authorizing any two or more persons to associate together for the purpose of forming a fire engine company, a library society, a singing or other musical society, and may admit members and assume a name, 'by which such society may be known and distinguished in law;' the 'agreement of association' is to be recorded in a book of records to be kept by the clerk of such society, and the substance thereof posted up in the town where such society is formed, and also recorded with the clerk of such town; the persons so associated are thereby constituted a 'body corporate and politic,' with the usual powers and duties incident to corporations. The property of such society is not to exceed one thousand dollars in value. No member of any fire engine company formed under this act, shall be exempt from performing military duty in the militia, if his exemption would reduce the company to which he may belong, below the number of fortytwo, rank and file, nor unless such engine company shall own and possess a suitable fire engine.'

An act was passed to abolish special pleading. In all civil actions the defendant may plead the general issue, which shall be joined by the plaintiff, and either party may give in evidence any special matter in support or in defence of the action, upon filing in the court a brief statement of such special matter, either of law or of fact, within such time as the court may order, of which statement

the other party shall be entitled to a copy.

An act to authorize persons to vote in any town who have resided in the town where he may offer his vote, 'at least thirty days immediately preceding the day on which the meeting in which he offers to vote shall be holden.' But when any person shall have removed into any town 'with his family and goods, with an evident intention of a permanent residence therein, and it shall so appear to the satisfaction of the selectmen and the moderator,' he shall be permitted to vote in any legal town meeting thereof.

An act was passed to raise the sum of fortyfive thousand dollars for the use of the State, to be paid into the treasury on or before December 1st, 1832.

Acts were passed for the incorporation of two Savings Banks; four library companies; nine manufacturing companies; the trustees of the Methodist Annual Conference; five fire engine companies; the Lyme Aqueduct Company; the Walpole and Aikens Academies; two bridge companies; the Beebus River Mining company; and the Dodges Falls Canal company.

At the session of the Legislature in June 1832, fortyfive acts and fourteen resolutions were passed.

An act making bank shares subject to all direct taxes, for the actual amount in value of said shares, whether the same be mortgaged, pledged or conveyed for the purpose of securing any loans obtained thereon, or for other purposes.

An act was passed granting premiums for killing bears, wild cats, foxes and crows.

An act authorizing the selling of any franchise for the payment of any tax that shall be assessed upon 'any bridge, canal, or other company, incorporated by law with power to receive toll, or upon any person holding such franchise.'

An act authorizing the chairman of any committee of the legislature, or the person acting as such chairman, to administer the oath to any witness who may be called before them to testify in relation to any subject under their consideration.

An act appropriating \$1500, for the purpose of educating indigent deaf and dumb children belonging to this State, at the Asylum in Hartford, Conn.

An act regulating the construction of highways, when such highways shall be laid out, for the accommodation of the public, through lands belonging to any minor, who has no legal guardian. Such highway may be constructed and

used 'before the damages assessed by the selectmen to such infant shall have been paid or tendered, and the town in which such highways shall be laid out shall be liable to pay the damages assessed by the selectmen, as aforesaid, to the guardian of such infant, when a guardian shall be appointed, or to the infant himself, when he shall arrive at the age of twentyone.'

An act was passed to regulate the inspection of beef and pork intended to be exported, and further to regulate the inspection of mackerel.

An act was passed that required the selectmen of towns to return to the secretary's office on or before November 21, 1832, an inventory of the polls and real estates of their respective towns, which inventories are to contain a statement of the lands, cattle, sheep, horses, mills, wharfs, toll-bridges, ferries, carding machines, bank stock, value of stock in trade, the sum total of all the money on hand, and at interest more than the party pays interest for, property in the public funds, chaises and other wheel carriages of pleasure, &c.

An act declaring that no mortgage of personal property shall be valid, unless the property be delivered to the mortgagee or the mortgage be recorded by the town clerk.

This act, however, is not to extend to bottomry and respondentia bonds, nor to property at sea, provided possession be taken as soon as may be after its arrival.

An act authorizing the removal of

prisoners from jail upon the breaking out of any contagious disorder.

An act authorizing the replevin of goods when attached, that are exempted from attachment. If the attaching officer have delivered the goods to a third person, the officer bearing the writ of replevin is authorized, after demand and refusal, to enter the close or building of such third person and replevy the goods.

Fourteen acts of incorporation were also passed.

Also acts regulating marriages and for the registering marriages, births, and burials;

Regulating the sawing and sale of sawed clapboards and shingles;

Authorizing selectmen to tax the rateable estate of legatees and wards in the hands of executors, administrators, trustees, and guardians:

To establish the rates at which polls and rateable estate shall be assessed in making direct taxes:

For the better organization of Courts of Justice.

Regulating the mode of putting pine timber into Connecticut river.

Among the resolutions was a Resolve approving the sentiments contained in the Proclamation of the President.

A Resolve directing the Governor to issue his warrant to the selectmen of the several towns, to take the sense of the qualified voters on the subject of a revision of the constitution.

And three for addresses to the executive to remove certain public officers.

## MASSACHUSETTS.

**LEGISLATURE.** — The legislature of the State assembled at Boston on the 4th of January, and the government was organized in the usual form. The Governor's Message was read on the 9th. The alteration of the present law relating to the election of representatives to Congress, and a restriction of the time for the return of votes, was recommended, and a bill for that purpose having been introduced was immediately passed. The State's Prison is said to have reached a satisfactory point of improvement, and to have been converted into a school of salutary instruction and reform. The number of convicts have been reduced, within the last year, from 290 to 256. The balance against the prison in 1830 was nearly \$7000; this has been reduced to \$477 47. It is

anticipated that the earnings of the prison will hereafter be more than adequate to its ordinary expenses. The Hospital for the Insane will be ready for occupants during the next summer, and will accommodate the superintendent and one hundred and twenty lunatics. The map of the State from actual surveys and admeasurements upon trigonometrical principles, is in progress. The geological survey of the Commonwealth is nearly completed. The necessary examinations of the country have been mostly made, and the *First Part* of an elaborate scientific report, comprising 'The Economical Geology of the State. or an account of our Rocks, Soils, and Minerals, that may be applied to useful purposes, and thus become sources of pecuniary profit,' accompanied with a



map, delineating by distinctive numbers and colorings, the various minerals and rock formations which prevail, has been transmitted to the Executive. The plan of the Professor proposes, that the Report should consist of *Four Parts*; the second part to exhibit the Topographical Geology, or an account of the most interesting features of our scenery; the third part, the scientific Geology, or an account of our rocks in their relation to science; and the fourth part to contain catalogues of the native Mineralogical, Botanical and Zoological productions of the State. The sales of the public lands in the State of Maine, between the first of February and the sixth of December, amounted to \$35,499 60. The Governor is of opinion that the award of the King of Holland, in relation to our boundary, is altogether void; and he says he sees 'no constitutional power in the nation to require an acquiescence in it, on the part of the States which would be prejudiced by its adoption.'—In relation to the Militia, the Message states that the laws now enforced have given rise to exemptions and evasions scarcely less in the aggregate than the muster-rolls of the train-bands themselves. The disbursements on account of the State, within the year have amounted to \$381,481 68; the receipts have amounted to but \$325,059 23; leaving a balance against the state of \$56,422 45. Of the disbursements, one item was for the payment of members of the legislature, \$101,271. This amount will be reduced hereafter, by dispensing with one session of the General Court, and still further reductions will be made by the statute enlarging the criminal jurisdiction of the Common Pleas. It is stated that the expenses of the government are less than one fifth part of the disbursements from the Treasury; the remainder of the aggregate is composed of various grants and immunities.

**STATE VALUATION.**—The Valuation Committee, which is required by the Constitution to value and assess the whole Commonwealth, once in ten years, finished its session about the first of January. The following table shows the aggregate of polls and property, as finally fixed by the Committee, and the apportionment of \$1000 on each, together with the increase *per cent* from the last valuation.

Counties.	Polls.	Property.	Portion of \$1000	Increase per cent.
Suffolk . . .	14,307	\$80,244,261 25	\$329 68	33
Essex . . .	20,664	24,335,935 57	120 29	15
Middlesex . .	20,324	21,682,609 00	109 46	64
Worcester . .	21,820	21,166,640 68	109 55	49
Hampshire . .	7,347	5,603,255 87	30 96	29
Hampden . .	7,497	6,548,342 20	34 81	45
Franklin . .	7,057	5,500,000 00	30 20	27
Berkshire . .	9,375	6,744,648 34	37 92	27
Norfolk . . .	10,637	10,229,111 09	53 05	31
Bristol . . .	11,527	11,346,916 33	58 50	70
Plymouth . .	10,466	7,576,932 06	42 52	22
Barnstable . .	6,862	3,500,000 00	22 18	46
Dukes . . .	1,022	524,166 75	3 36	11
Nantucket . .	1,656	3,895,288 40	17 21	23
	150,591	\$208,908,107 54	\$1000 00	

At the last valuation, in 1821, the amount of property was \$153,644,267 77, and the number of polls, 122,715. According to the above estimate, the increase of property in ten years has been \$55,263,839 77, and of polls 27,876.

**BANKS.**—It appears from the Abstract of the Bank Returns, that there were in this State, on the 1st of October last, seventy chartered banking corporations, and that their capital stock paid in was \$21,439,800; bills in circulation, \$7,739,317; net profits on hand, \$734,312,33; balances due to other banks, \$2,477,615 43; cash deposited, &c., not bearing interest, \$4,401,965, 62; cash deposited, and bearing interest, \$4,550,947 68; due from the banks, \$41,393,083 33; gold, silver, &c., in banks, \$919,959 73; in real estate, \$683,307 89; bills of banks in this State, \$1,104,567 29; bills of banks elsewhere, \$270,606 88; balances due from other banks, \$2,427,679 37; due to the banks, excepting balances, \$86,040,760 76; total resources of the banks, \$41,445,700 09; amount of last dividend, \$566,715; amount of reserved profits, \$409,128 76; debts secured by pledge of stock, \$752,312 37; debts due and considered doubtful, \$268,687 81; rate of dividend on amount of capital of the banks, as existing when dividend was made, 3 per cent less 1-3 of 1-100th part of 1 per



cent. Eight of the seventy being new banks, made no dividend on the 1st October. Of the seventytwo banks now in existence, twentytwo are located and transact business in Boston, eighteen in the county of Essex, five in Middlesex, one in Plymouth, seven in Bristol, two in Branstable, three in Nantucket, two in Norfolk, six in Worcester, three in Hampshire, one in Franklin, and two in Berkshire.

**FINANCES.**—By the Treasurer's Report it appears that the operations of the year 1831 were as follows:

In the Treasury, January 1	\$25,275 25
Received from State Taxes	73,691 00
Bank Tax	196,908 93
Auction Tax	26,005 23
Of Claim on United States	419,748 26
Of Lands in Maine	17,980 81
Borrowed	262,000 00
Interest	9,272 38
Miscellaneous	833 75
Of County Treasurers	367 13
	<hr/>
	\$1,032,082 71

Paid Expenses of the Government	\$270,435 78
Loaned	414,950 00
Paid to County Treasurers	39,091 11
State Prison	8,000 00
For building Lunatic Hospital	22,000 00
Deaf and Dumb	6,745 25
Agricultural Societies	3,230 76
Borrowed Money	217,100 00
Interest	6,860 07
Miscellaneous	25,118 71
Balance on Hand	18,551 03

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\$1,032,082 71

**LEGISLATION.**—The Legislature of Massachusetts adjourned on the 24th of March, having been in session from the first Wednesday in January. One hundred and seventy acts were passed — of which about twentyone were of a strictly public character — ten were for increasing the capital stock of certain banks — seventeen were to incorporate new banks — twentyfour were to incorporate manufacturing companies — nine related to insurance companies — and the remainder, chiefly had reference to the incorporation of academies, religious societies, rail-roads, wharves, bridges, &c. One of the most important public acts is that enlarging the jurisdiction of the court of common pleas in criminal cases, and regulating the appointment and duties of prosecuting officers.

This act confers on the common pleas, except in the county of Suffolk, exclusive original jurisdiction of all crimes and misdemeanors formerly cognisable in the supreme court. Persons accused of capital crimes, are to be originally prosecuted in the common pleas and tried in the supreme court. The State is to be divided into districts, and a District Attorney with a salary of \$1800, appointed for each District, and an Attorney General, with a salary of \$1800, is also to be appointed, who is to give advice when required, in the arrangement and preparation of legislative business, and to appear in the trial of all prosecutions for capital offences and of all causes in the supreme court in which the Commonwealth is interested.

An act was also passed dividing the State into thirteen districts for the choice of Senators and counsellors according to the late valuation, viz:

Suffolk,	to choose	6
Essex	"	6
Middlesex	"	5
Worcester	"	6
Hampshire	"	2
Hampden	"	2
Franklin	"	1
Berkshire	"	2
Norfolk	"	3
Bristol	"	3
Plymouth	"	2
Barnstable	"	1
Nantucket & Dukes		1

An act exempting fuel to the amount of ten dollars from attachment.

An act extending the process of foreign attachment to property in the possession of a corporate body, and compelling the proper officer conducting its concerns, to make a full disclosure under oath.

An act declaring mortgages of personal property invalid, except possession is taken of the property or the mortgage be recorded with the town clerk. This law which is similar to that of New Hampshire, is not to extend to property under bottomry or respondentia bonds, or at sea, provided it be taken into possession upon its arrival.

An act giving to the Supreme Court equity powers in all controversies between co-executor or co-administrators.

An act declaring persons attempting to commit murder by poisoning, drowning or in any other way not before provided for by law, or accessory thereto before the attempt, liable to solitary confinement of three months and to be imprisoned at hard labor for five years.

An act declaring that the machinery employed in manufacturing shall be assessed in the towns where used, and that the value thereof shall be deducted from the shares of the corporation owning the same before assessing the stock for taxation.

An act requiring the capital stock of all Insurance Companies to be paid in within one year after being incorporated; prohibiting the taking on one risk more than ten per cent of their capital; declaring them liable to taxation, and authorising in all actions to which they are parties, any evidence to be given under the general issue, upon notice being given of the facts seven days before the trial.

An act requiring the resident agents of Insurance Companies of other states, where a tax is imposed on foreign insurance contracts, to make a semi-annual return to the state treasurer of all property insured by him as agent, and to pay a tax of one half per cent on the whole amount so insured. And where any such law taxing insurance contracts by foreign insurers, may be passed in states where no such law now exists, the resident agents of insurance companies belonging to such, shall give a bond to pay such tax within sixty days after the passage of such law.

An act prohibiting gambling in licensed taverns, and declaring that where credit shall be given by a tavern keeper from time to time, to any person to be drank in his premises, the same shall be forfeited.

Acts were passed incorporating five new insurance companies, sixteen new banks, and increasing the capital of ten old ones; sixteen new manufacturing companies, and increasing the capital of three old ones; two coal companies, three rail road companies, eight academies, one hospital, ten religious societies, one astronomical observatory association, and two for marine purposes.

A bill entitled 'an act for the relief of insolvent debtors,' passed the Senate, but was rejected in the House. Another bill, the object of which was to abolish imprisonment for debt, went through the same process and met the same fate.

#### TREASURY REPORT, FOR DEC. 31, 1831.

##### *Receipts.*

Cash in the Treasury January 1, 1831	\$25,275
State tax for 1830	73,180

State tax for 1831	511
Tax on banks	196,909
Duties on sales by auction	26,005
Claim on the United States for Militia services	419,748
Income from lands in Maine	17,981
Principal of bonds and notes	620
Interest on bonds and notes	9,272
Balance from County Treasurers	367
Fees from the Solicitor General	26
Fees from the Attorney General	113
Miscellaneous	74
Borrowed by Resolve of Legislature	262,000
	<hr/> \$1,032,083

##### *Expenditures.*

Salaries of officers, and incidental charges	\$65,715
Pay of Counsellors, Senators and Representatives	104,314
On rolls of the Committee on accounts	94,707
Balance of accounts to County Treasurers	39,091
From claim on United States for militia services	414,950
Adjutant and quarter-master generals department	5,700
State Prison	8000
Lunatic Hospital at Worcester	22,000
Support and Instruction of deaf and dumb	6,745
Agricultural societies	3,231
Pensions to soldiers	1,605
Miscellaneous	23,514
For money borrowed	217,100
Interest on ditto	6,860
Cash in the Treasury January 2d, 1832.	18,551
	<hr/> \$1,032,083

#### AMENDMENT OF CONSTITUTION. —

An amendment to the constitution was proposed in the legislature of 1832, and carried, ayes 347, nays 90, by which all religious sects were put on an equal footing, and declaring that all religious societies, whether incorporated or not, shall have the right to elect their religious teachers, and to manage all the pecuniary concerns of their societies; and that all persons shall be deemed members of the religious societies to which they belong until they file a written notice of their withdrawal with the clerk of such society.

## RHODE ISLAND.

**ELECTIONS.** — There were three unsuccessful attempts to elect a governor of this state in 1832.

The following is given as a correct return of the votes at the first election: for Mr Arnold, (Nat. Rep.) 2730; Mr Fenner, (Jackson) 2290; Mr Sprague, (anti-masonic) 608. No choice.

**CITY OF PROVIDENCE.** — The organization of the City Government of Providence took place at the Court House on the second Monday of June, 1832. The oaths of office were administered to the Mayor and Aldermen by the President of the Town Council, and by the mayor to the members of the Common Council. Richard M. Field, late Town Clerk, was unanimously chosen City Clerk. The Mayor delivered his Inaugural Address in the presence of a large audience. He spoke of the newly adopted form, as one not tending to impair the rights of the people, and stated the object in obtaining the Charter to have been, not to obtain more power, but to administer the power already possessed with more prudence, economy, and energy. After the Address, the Mayor and Aldermen retired to the Senate Chamber, and the Common Council was organized, by the appointment of Mr George Baker, President, and Mr Thomas B. Fenner, Clerk.

**MANUFACTORIES.** — By a statement in the Providence Journal it appears that there were in Rhode Island in 1832, 110 cotton factories, with a capital, embracing ground, buildings, machinery and materials, of \$6,866,334; 22 woollen factories, capital \$617,435; 15 bleacheries, capital \$317,000; 2 print works, capital \$287,875; 10 founderies; 30 machine shops, capital \$1,142,633; 4 tanneries, capital \$217,000; 27 jewelers shops, capital \$100,200; 2 comb manufactories, capital \$72,000. Total capital, \$9,522,672. Number of hands employed in the above establishments, 11,273. Besides these, there are a large number of smaller establishments for the manufacture of brass, tin, &c.

**LACE WORK.** — An establishment called the Rhode Island lace school has commenced at Newport. Notwithstanding its recent origin, no less than *seven hundred females* are actively employed by its proprietors. The style of lace work is said to be the most ingenious of its kind, and of that particular description with which the English dealers in lace have had to supply themselves in France, in consequence of the superior

excellence of execution of their Gallic competitors.

In the year ending 1st October, 1830 — there were imported into Providence, Rhode Island, 61,887 barrels of flour, 396,928 bushels of corn, and 18,857 bushels of rye. In the year ending October 1st, 1831 — 75,164 barrels of flour, 243,290 bushels of corn, and 11,172 bushels of rye.

In the first year, 43,000 bales of cotton, imported at Providence, were *consumed* — in the last year 53,278 bales; and the stock on hand, 30th September, 1831, was 12,730 bales — to wit, 5,430 Louisiana and Alabama, 5,691 upland, 354 sea-land.

**BANKS.** — The following is the aggregate of the returns from the fifty-one Banks in this State, made at the October session, 1831.

Capital stock	\$6,732,296 53
Deposits	1,290,603 17
Profits on hand	179,552 97
Due from banks	112,261 49
Bills in circulation	1,342,326 50
Debts due from directors	853,298 69
“ other stockholders	697,921 13
“ from all others	6,695,505 74
Specie	425,692 38
Bills of other banks	257,792 95
Deposited in other banks	323,035 66
Bank and other stocks	245,775 60
United States stock	28,025 59
Real estate	252,163 14
Personal estate	8,453 08

From the above aggregate, it appears that the increase of bank capital in this State, since the report of October, 1830, is \$743,485.

**EXPENDITURES FOR 1831.**

For support of public schools	\$10,000
Civil list, &c.	18,000

Total 28,000

**EDUCATION.**

Whole number of public schools in the state	323
Whole number of scholars taught in them	17,034
Number of male teachers employed	228
Number of female teachers employed	147
Number of schools continued through the year	20
Average time of the others	3 months
Whole amount appropriated by the towns for the support of schools	11,490



Amount drawn from school fund	10,000	taught in them, exclusive of the Friends' boarding school, Providence	3,403
Whole amount expended for support of public schools	21,490	Total estimated expense of private schools	81,375
Number of pri- } male teachers	30	Sum total expended for support of schools for one year.	102,865
} female do	88		
Whole number of scholars			

## CONNECTICUT.

**ELECTION.**—The Legislature convened at N. Haven, on the first Wednesday in May, 1832. The official returns of votes gave for John S. Peters, the National Republican candidate, 11,971; for Calvin Willey, (Anti-masonic) 4,463; scattering 616. Majority for Peters, 6,892.

The Senate was organized by the choice of Roger Huntington, of Norwich, President pro tem; the House of Representatives, by the choice of Martin Wells, of Weathersfield, Speaker.

The Governor's Message to the Legislature presented a satisfactory view of the civil and political condition of the State. In relation to the finances, it is said—

'The permanent Civil List Fund of the State of Connecticut, amounts to four hundred and thirtyfive thousand one hundred two dollars, sixtyone cents; the interest of which is applied to the current expenses of the government.

'The revenue to the State from every source, for the year ending on the thirty-first day of March, A. D. 1832, amounts to eightytwo thousand six hundred fiftyseven dollars fifteen cents; including cash in the Treasury on the first day of April, A. D. 1831, one thousand eight hundred fortysix dollars, ninety six cents, and uncollectable notes, two hundred fortythree dollars and sixteen cents.—The disbursements from the Treasury during the last political year, amount to seventythree thousand six hundred sixtyfive dollars seventy six cents;—leaving cash in the Treasury on the 1st day of April, A. D. 1832, ten thousand thirty-eight dollars thirtyfive cents, together with said notes.'

'The State of Connecticut has, in proportion to the number of her population, a larger fund appropriated for the use of Common Schools, than any other State in the Union. The interest of this fund, which has been applied, during the year ending on the first day of March, A. D. 1832, to its appropriate object, amounts to \$76,585 50. The number of children between the ages of four and sixteen years, enumerated in this State in August last, is 85,095. Many cir-

cumstances, at present unavoidable, render a part of the School Fund unproductive; but when the whole amount of its capital can be made to produce six per centum per annum, an annual dividend may be anticipated of from \$1,25 to 1,34 for each child enumerated.'

The message refers with much mortification to the fact, that *thirty* adult persons are unable to read, among the 297,711 who inhabit that State!!!

**THE SCHOOL FUND.** The following facts are taken from the report of the Commissioner of the School Fund, made to the Legislature at its late session, as abridged in the Hartford Review.

The whole Capital as ascertained on the 1st of April, 1831, consisted of the following items:

1. Bonds, Contracts and Mortgages	\$1,423,716 42
2. Bank Stock	99,950 00
3. Cultivated Lands and Buildings	196,595 90
4. Wild Lands	164,144 60
5. Stock and Farming Utensils	1,320 00
6. Cash on hand of principal	17,230 95

Amount of Capital \$1,902,957 87

The subjoined table shows the number of children in the State, between four and sixteen years of age, as enumerated in August, 1831, and the amount of dividends made in the year ending March 31st, 1832.

	<i>Children.</i>	<i>Dividends.</i>
Hartford County	14,467	13,020 30
New Haven "	11,919	10,727 10
New-London "	12,229	11,006 10
Fairfield "	13,308	11,977 20
Windham "	8,007	7,206 30
Litchfield "	12,239	11,015 10
Middlesex "	7,299	6,569 10
Tolland "	5,627	5,064 30
	85,095	76,585 50

**WOOLLEN AND COTTON FACTORIES.** From an article in the New England Review, which may be relied on as authentic, it appears that the State contains about fifty Woollen Factories, in which



the amount of capital invested is \$1,-281,050; annual amount of goods manufactured, \$1,399,228; pounds of Wool manufactured, 1,574,314. The whole number of yards of Broad Cloth manufactured annually, is 290,000; of Flannel, 229,078; of Satinet, 808,915; of Cassimere and other narrow cloth, 108,000. In these manufactories about two thousand persons are constantly employed. In addition to the above, however, there are twentyfour manufactories from which no returns have been made, which employ an aggregate capital of \$100,000.

In ninetyfour Cotton Factories, the capital invested is \$3,101,229; yards of cloth manufactured, 20,212,953; pounds of Cotton used, 818,090. There are also, twelve new manufactories not yet in operation, most of which are nearly completed. In the manufacture of Cotton goods about 5000 persons are actively employed in the State.

The following resolutions were passed by the Legislature in May, 1832.

*Whereas*, The right to protect and encourage domestic industry and the mechanic arts, was one of the moving causes of the American revolution, and the practice of that right, one great object in the adoption of the constitution of the United States: and whereas from the first act of the first Congress to the present period, the government of the United States, adopted and sustained as they have been by public opinion, have adhered to the principle of protecting the agricultural, commercial and manufacturing industry of the people from the fatal effects of foreign competition: and whereas a very large proportion of the property of our citizens has been invested in those branches of industry in a confident reliance upon a continuation of that policy —

*Resolved, by this assembly*, That we regard the policy of a protecting tariff, as the foundation of our prosperity and independence as a nation, and we should deprecate any indication on the part of the general government, that it can in any event be abandoned.

*Resolved*, That we have witnessed

with much anxiety the various propositions recently brought before Congress, designed to unsettle our legislation, and to reverse a policy which has contributed so much to the present happy and prosperous condition of our country.

*Resolved*, That if any modification of the tariff be expedient, by reason of the approaching extinguishment of our national debt, that the same should be so arranged as to give effectual protection to every branch of national industry.

*Resolved*, That the Senators and Representatives of this State in the Congress of the United States be, and they are hereby, desired to make all suitable and proper exertions to maintain the principle of protection in a form that shall be every way adequate to insure the safety and future prosperity of existing interests.

**NEGRO COLLEGE.** — An attempt was made to establish a college for educating colored people at New Haven, but the inhabitants of that city met on the 10th of Sept. 1831, and after passing a preamble, voted the following resolution:

*Therefore, resolved, by the Mayor, Aldermen, Common Council, and Freemen of the city of New Haven*, in city meeting assembled, That we will resist the establishment of the proposed college in this place by every lawful means.

**EXPENDITURE** for the year ending March 31, 1832.

For debentures and contingent expenses of general assembly	\$14,254
Salaries	9,095
Contingent expenses of government	5,221
Judicial expenses of government	25,712
Expenses of state paupers	2,000
State prison (salaries of directors)	300
Advances to the quarter Master General	818
Public buildings and institutions	4,904
Total	\$62,304

## VERMONT.

**ELECTIONS.** — Official returns of the votes for governor: —

Mr Palmer, (anti-masonic)	15,258
Mr Allen, (national republican)	12,999
Mr Meech, (Jackson)	6,158

No choice. But the plurality system prevailing as to the council, the anti-masonic ticket fully succeeded. Mr Palmer was elected Governor by joint ballot—for him 114, for Mr Allen 36, Mr

Meech 42, Mr Crafts 35—majority for Palmer, *one*. Mr Smith, elected Speaker of the House of Representatives, and all the rest of the officers appointed, are anti-masons.

**TREASURY.** — By the Report of the Auditor of the Treasury Department, there has been paid out of the Treasury of the State, for the year ending September 30, 1831, \$62,078.90; leaving a balance in the hands of the treasurer at the same date, of \$14,193 15. The amount due for arrearages on taxes, September 30, 1831, was \$38,231 79.

**SCHOOL FUND.** — The Auditor reports that the amount of the School Fund, on loan, September 30, 1831, was \$36,267 40. The loans are mostly secured by mortgages on real estate, of much greater value than the amount of the loan, or additional names of undoubted responsibility.

**BANKS.** — It appears by the report of the agent appointed to examine the state of the several Banks in the State, dated October 17, that the whole amount of the capital stock paid in, is \$511,640. Deposites, \$155,368 02. Bills in circulation, \$1,335,342 70. Notes discounted, and due on book, \$1,303,398 73. Specie and bills of other banks on hand, and depositories in other banks, \$762,472 06. Real estate held at cost, \$27,754 73.

**STATE PRISON.** — The committee appointed to settle with the Superintendent of the State Prison, report, October 17, 1831, that the value of the personal property belonging to the prison, manufactured goods and stock, and debts due, amount to \$30,378 65: that the claims outstanding against the State, amount to \$14,730 64, leaving a balance of \$15,748 01 in favor of the State. 143,000 yards of cotton cloth were wove at the prison the past year, being 17,000 more than the product of the previous year's labor. The superintendent has commenced the experiment of manufacturing shoes. — He says, he has 'made a purchase of leather, and commenced with ten convicts in the manufacture of men's coarse shoes, of a fair quality, and from the price that article bears in the large markets, the prospect is good that a profitable business may be made of it, on a limited scale.' \$211 40 has been received from the committee of visitors the last year. The amount produced by the labor of the convicts has been sufficient to defray the general expense of the prison for the year, except the expenditures for the new buildings.

**RECEIPTS** for the year ending September 30, 1831 —

By balance in the Treasury	\$4,094
Six per cent on dividends of Banks	3,463
Debts due to old State Bank	3,137
Direct tax	59,391
Other receipts	6,987

Total \$77,072

*Expenditures.*

To members of the General Assembly	\$12,443
Salaries of Judges	5,875
Court orders for fees of witnesses, jurors, &c.	17,337
Commissioners of deaf and dumb	25 50
Superintendent of the State Prison	5,000
Amount applied to school funds	9,586
Other expenses	9,088

Total \$62,879  
Balance remaining 14,193

Total \$77,072

**LEGISLATION.** — At the October session of the Legislature of Vermont in 1831, 38 public acts, 5 resolutions and 70 private acts, were passed.

Among the public acts are the following.

An act declaring that the statutes of limitations are not to apply to any claim, 'in offset, which existed at the time or subsequently to the making of the contract or contracts, in offset to which said claims are pleaded.'

An act declaring that where a married woman in this or any other State, whose husband is under guardianship, is possessed in her right of any real estate in this State, in common, she may join with the guardian of her husband in making partition thereof with the other tenants in common. Such married woman and guardian are authorized to execute and receive the deed, &c, necessary in making such partition.

An act giving powers to probate courts on application, to authorize executors or administrators to sell the real estate of any person for the purpose of paying debts and legacies, in preference to selling the personal estate, if it shall appear to the court that creditors will not be injured thereby. But this power is not to be exercised to defeat any devise of real estate, without the assent of the devisee.

**BANK FUND.** — An act requiring every banking corporation hereafter created or re-chartered, to pay annually to the treasurer of this State three fourths of one

per cent on its capital stock paid in, 'excepting therefrom such part as is held by the State, and at the same rate for the same time such corporation shall have been in operation, if less than one year,' until four and one half per cent upon the capital stock shall have been paid into the treasury. The fund thus created is to be called the bank fund, and to be appropriated to the payment of the debts of insolvent banks. The fund is to be invested in the same manner as the school fund. Three bank commissioners are to be elected whose duties are prescribed in the act. Of the three bank commissioners, one is elected by joint ballot of both houses of the legislature, and the other two by the corporations subject to the act. No stockholder can be elected a commissioner. No bank is to issue an amount of notes and bills exceeding three times its capital stock paid in, under penalty of being proceeded against as insolvent: which is also to be done in case of the loss of half its capital on the suspension of specie payments for sixty days, on a refusal to permit an examination of its officers under oath. If any banking company shall, by its act of incorporation, make the private property of the stockholders liable to redeem its bills, it shall not be required to comply with the provisions of this act.

An act taxing at five per cent bank stock owned by any inhabitant of this State, in any bank out of this State, making the cwt. one hundred pounds in weighing all gross articles.

An act levying a tax of three cents on the dollar on the list of the polls and rateable estate of the inhabitants of this State for 1831, to be paid by June 1, 1832.

An act appropriating \$50,000 for the purpose of paying the debt of the

Lieutenant Governor, Council, General Assembly, and contingent expenses, &c, &c, a sum not exceeding \$20,000, for paying such demands against the State as may be allowed by the auditor of accounts, &c.

An act authorising the Governor to appoint commissioners of deeds, &c, in other States of the Union, who are to be sworn, and to give a bond for \$500 for the faithful performance of their duties.

An act allowing the acknowledgment and proof of the execution of deeds in a foreign State or kingdom, before any minister, *Chargé-des-affaires*, or Consul of the United States, the chief magistrate of the city, or before a commissioner appointed by the State for that purpose.

An act to encourage the destruction of bears.

A resolution was passed instructing Senators and Representatives of the State in Congress to endeavor to procure an appropriation from the general government for the erection of a breakwater in Lake Champlain, opposite Burlington.

Seventeen acts were passed, laying taxes on towns, for the purpose of making and repairing roads and bridges: several acts relating to the subject of roads, ferries, &c.

Two rail road companies were incorporated with capitals of \$1,300,000.

Three banking companies were incorporated, whose capitals amount to \$300,000.

Two manufacturing companies were incorporated.

Three companies were incorporated for the purpose of preventing and extinguishing fires.

An act restoring a person to the enjoyment of the privileges of which she had been deprived by a conviction of theft.

## NEW YORK.

### STATISTICS. — TREASURER'S REPORT FOR 1831.

#### Receipts.

Canals — tolls, revenue, &c.	\$1,202,532
Principal and interest on bonds for lands of the general fund	72,018
Principal and interest on do. common school fund	35,263
Principal and interest on do. of Literature fund	18,529
Principal and interest on loans to individuals	29,323

First payment on sales of lands of the general school, literature and canal funds	47,898
Fees from state officers	1,659
Bank fund	27,085
Bank dividends	18,104
Principal and interest of the loan of 1792	39,604
Principal of the loan of 1808	49,616
Arrears of county taxes and interest	30,279
Tax on foreign insurance companies	2,567
Balance due from individuals	4,159

Sales of revised statutes	6,006	BANKS, 1832. — Capital paid in Jan-	
Military fines	1,147	uary.	
Redemption of lands sold for		Albany - - - -	1,576,600
county taxes	10,706	Broome - - - -	100,000
Sales of bank stock	42,098	Cayuga - - - -	200,000
Interest on canal stock, be-		Chautauque - - - -	100,000
longing to school fund	15,262	Chenango - - - -	120,000
In full of the bond of the		Columbia - - - -	100,000
corporation of Albany	51,598	Dutchess - - - -	175,000
From New York health		Erie - - - -	200,000
commissioners for mari-		Genesee - - - -	100,000
ners' fund	12,198	Greene - - - -	250,000
Various miscellaneous sour-		Jefferson - - - -	80,000
ces	22,948	Kings - - - -	300,000
	<hr/>	Livingston - - - -	100,000
	\$1,740,531	Madison - - - -	100,000
		Montgomery - - - -	100,000
		Monroe - - - -	550,000
		New York - - - -	15,561,000
		Niagara - - - -	100,000
		Oneida - - - -	700,000
		Onondaga - - - -	150,000
		Ontario - - - -	800,000
		Orange - - - -	245,660
		Oswego - - - -	150,000
		Otsego - - - -	220,000
		Rensselaer - - - -	190,000
		Saratoga - - - -	100,000
		Schenectady - - - -	165,000
		St Lawrence - - - -	100,000
		Tompkins - - - -	200,000
		Ulster - - - -	100,000
		Washington - - - -	100,000
		Wayne - - - -	100,000
		Yates - - - -	100,000
			<hr/>
			\$24,133,260
		The following is the aggregate state-	
		ment of the funds, &c, of the 51 banks	
		reporting to the commissioners, on the	
		31st January, 1832:	
		Notes discounted	\$32,824,953 17
		Bonds and mortgages	347,112 52
		Debts in judgment	171,994 70
		Debts in suit	90,576 93
		Special loans	685,644 68
		Real estate	888,127 3
		Stock owned by the banks	86,632 56
		Debts on account of over	
		drafts	195,980 52
		Personal estate	21,482 63
		Profit and loss	94,833 78
		Bank fund	65,698 91
		Specie	1,681,858 04
		Bills of solvent banks	4,179,953 93
		Items counted as cash	466,832 98
		Debts due from corpora-	
		tions, private bankers,	
		and brokers	4,431,820 28
		Due from branches to pa-	
		rent bank,	428,041 41
			<hr/>
			\$46,661,547 07

The balance in the treasury on the 1st  
December 1830, was \$69,893 84



Capital	\$13,755,800 00
Bank notes in circulation	12,005,824 70
Profit and loss	1,740,085 51
Deposits to apply on debts	181,304 03
Dividends unpaid	159,953 09
State of New York deposits	12,698 37
Deposite by the commissioners of the canal fund	2,122,462 19
Individual deposits	5,783,411 67
Corporations, private bankers and brokers	5,334,954 00
Due from branch to parent banks	426,433 51
Special loans	139,000 00
	<hr/>
	\$46,661,5477 0

The number of banks in the State is 64.

**SUPPORT OF THE POOR FOR 1831.**—The abstracts show that 15,564 paupers have been relieved or supported during the year: Of this number 13,573 were county paupers, and 1990 town paupers. The whole expense of supporting all the paupers for the year, is \$245,433 21.

There has been paid for the transportation of the paupers \$4,042 13 cents; to superintendents, \$7,481 05 cents; to overseers, \$5,102 91 cents; justices, \$1,627 03 cents; to keepers and officers, \$17,545 06 cents; that the value of the labor of the paupers was \$12,663 26 cents; the amount saved in consequence of labor of paupers, \$17,546 74 cents; and that the average expense of supporting a pauper at a poor house is \$33 28 cents per year, or 64 8-10 cents per week.

There are 5221 acres of land attached to the poor houses, and the total value of all the poor house establishments in the State is \$830,350 46 cents; that 10,896 paupers have been received into the poor houses during the year; that there were born in the poor houses in the same time, 170; died during the year, 1157; bound out, 318; discharged, 5962; absconded, 545; total females in poor houses December 1, 1831, 2532; males, 2862 — total of both sexes 5554. That of those relieved during the year, there were 2795 foreigners, 410 lunatics, 224 idiots, and 30 mutes.

The report exhibits the number of children under 16 years of age in all the poor houses, and the arrangements which are made for their instruction. The number of females under 16 is 745; males 1050 — total of both sexes 1780.

**LEGISLATION.** — The legislature

closed its annual labors on the 18th of April, 1832, after a session of one hundred and thirteen days, having passed upwards of three hundred and thirty-five acts and nine resolves.

Two cities were incorporated — Utica and Buffalo. Rochester failed in consequence of a disagreement between the two Houses on the question whether the election of justices should be given to the people, or retained by the legislature. Six villages were incorporated.

Also, bills directing the final settlement of the claims of John Jacob Astor against the State — postponing the election of Representatives to Congress until 1833, in order to secure the number to which the State shall be entitled under the new Apportionment Bill, &c.

An act to prevent the abatement of suits where corporations are parties, in case of their dissolution during the pendency of the suit. An act authorizing the release of escheated lands to the heirs of the owner, upon payment of a certain part of the value into the State treasury.

An act allowing the superintendents of the poor to make such arrangements as they may deem equitable with the putative fathers of bastard children.

An act authorizing holders of bills of exchange and promissory notes to sue all the parties thereto in one action — the rights and responsibilities of the parties as between each other not to be affected by the act.

An act prohibiting, under the penalty, the carrying on the business of an apothecary in the city of New York, after 1834, without a diploma from the college of Pharmacy, or some other medical college, or a certificate from one of the medical societies of the State.

An act authorizing the appointment of measurers of grain in the city of New York. The measurer general is to keep an office for orders to measure grain, and in case of a dispute as to the measurement, he is to determine it, and if the buyer or seller be dissatisfied as to any decision concerning the quality, he may appeal to three indifferent persons, whose decision shall be final.

The measurers are prohibited from dealing in grain, either as agents or otherwise, and returns are to be made annually to the legislature, of the quantity measured, the annual price, from where shipped and the amount of fees, &c.

A temporary act for a quarantine against the Asiatic cholera, or any other malignant disease.

Inspection laws relating to the inspec-

tion of beef, pork, salt, flour, meal, and oil.

Act were also passed incorporating seven Banks with a capital of \$1,450,000; eight Insurance companies with a capital of \$1,750,000; twentyfive Rail road companies with an aggregate capital of \$24,775,000; two Canal companies and one company for a Canal or rail road; two Coal companies; two Whaling companies; one Mining association; three

Water companies; twelve Manufacturing companies with a capital of \$1,705,000; five Turnpike companies, and several companies for useful and benevolent purposes.

A resolution was passed declaring that the charter of the United States bank ought not to be renewed, and requesting the Representatives and instructing the Senators to vote against it.

## NEW JERSEY.

Extracts from the message of Gov. Vroom to the Legislature, in Nov. 1831.

The suit instituted by this State against the State of New York, pursuant to the act of February, 1828, is still pending undetermined, in the supreme court of the United States. The process has been sometime since served and returned; and the State of New York, having declined to appear in obedience to its requirement, the court at its last session in January, caused a rule to be entered, that the complainant should be at liberty to proceed *ex parte*; and unless the defendant should appear at the next term of the court, which will be in January, and answer the complainant's bill, the court would proceed to hear the cause, and make such decree as might be just.

In consequence of this proceeding the governor of the State of New York addressed a message to the legislature of that State, in which he calls in question the right and authority of the court, to take cognizance of the matters in controversy between the two States, and requests direction as to the course he should pursue. The executive of our sister State is not understood to have placed himself on the broad ground, that the constitutional power of the supreme court did not extend to suits between different States, but on the principle, that the power of the court, though constitutional in the abstract, could not legally be exercised, until the mode of proceeding in cases of this description should be pointed out and regulated by an act of Congress. In view of the whole subject he suggested the propriety of an appearance on the part of the State, accompanied with a protestation, to save the State from being concluded on the question of jurisdiction. Under the expectation that such appearance would be entered by the State of New York, and in the sincere desire that the suit should be con-

ducted with a spirit of amity, this State has forbore to proceed in the examination of witnesses; and it is probable that no step will be taken in the cause until after the next term of the court.

I deem it unnecessary, if not a matter of questionable propriety, to enter into any discussion of the grounds assumed by the executive of New York. We have taken our position after full and solemn advisement. The question is pending before a tribunal whose wisdom we cannot hope to instruct. In its purity and integrity we repose with implicit confidence; and to its judgment, matured and enlightened as it always is, we feel great safety in committing our rights.

EDUCATION.—This State has a school fund of \$228,612, yielding an annual income of \$15,952; and by a law passed in 1829, \$20,000 are annually distributed among such towns as may raise an equal sum which may be received by them for the support of common schools. About fifteen thousand adults it is said are unable to read in this State, and in some places the children are entirely destitute of instruction.

INTERNAL IMPROVEMENT.—The two great works of internal improvement, viz. the Delaware and Raritan canal, and the Campden and Amboy rail road, were rapidly advancing to completion. The latter was opened in 1832 for one track as far as Bordentown, and greatly facilitated the transportation of passengers and goods between New York and Philadelphia.

At the Legislative session for 1832, those companies were authorized to transfer to the State one thousand shares of their capital stock, upon which no payments were to be at any time required by the State as a bonus for granting the charters. The State agreed to permit no other rail road to be constructed between those cities without the con-

sent of the companies, during the continuance of the charter of the Rail Road Co. The company is required to construct a lateral branch to New Brunswick.

The New Jersey rail road and transportation was also incorporated to construct a rail road from New Brunswick through Rahway and Newark to New York, and the State reserved the right to subscribe for one quarter of the stock within two years. Two other rail road companies were incorporated.

**LEGISLATION.**—At the legislative session, began October 25, 1831, there were the following laws of general interest:

An act providing for a reporter of the decisions in the Courts of Chancery, of prerogative and of appeals.

An act declaring that no indictment on information shall be abated by a plea of misnomer, but the Court may, when satisfied of the truth of such plea, order an amendment.

An act was passed to authorize the payment of two thousand dollars to the agent of the Delaware tribe of Indians formerly resident in New Jersey, but now at Green Bay in Michigan, for a release of their title to the fisheries in the bays south of the river Raritan.

The preamble of this act states that although the Indian title to the fisheries is barred by reason of their voluntary abandonment, 'the legislature should grant a remuneration for the right to said fisheries, as an act of voluntary justice, as a memorial of kindness and compassion to the remnant of a once powerful and friendly people, and as a consummation of a proud fact in the history of New Jersey, that every Indian claim, right and title to her soil, and its franchises have ever been acquired by fair and voluntary transfer.'

An act authorizing the Orphans' Court in the several counties, to order from time to time, upon the application of the guardian of a minor, the sale of so much timber on the real estate of such minor as shall be sufficient for his main-

tenance and education. The personal estate, and rents and profits of the real estate, must appear not to be adequate for such objects.

An act declaring that deeds officially given of real estate sold under execution, shall be valid, notwithstanding any variance between the recitals therein and the execution, or between the executions and the judgments. The Court may, when the record is offered in evidence to support such deed, consider the same as amended. Deeds made pursuant to an order of the orphans' court, are placed upon a similar footing.

A tax of forty thousand dollars was authorized for 1832.

Acts were also passed incorporating two new Banks; four Fire Companies; two Bridge Companies; one Insurance Company; one Mining Company; one Coal Company; four Manufacturing Companies; one Steamboat Company; two Lyceums, and one Dispensary.

Six pensions were granted, and nine acts of divorce passed, and a resolution of the following import:

*'Whereas, the people of the State of New Jersey feel a deep interest in all things affecting the welfare of their common country, and particularly in every measure having relation to the Judiciary, the Tariff System, Internal Improvements, and the Currency of the country—the maintenance of each, in all their inviolability, is deemed essential to the prosperity of these United States—Therefore,*

*'Be it resolved by the Council and General Assembly of the State of New Jersey, That our Senators be instructed, and our Representatives in Congress be requested, to use their best endeavors to maintain the present Judiciary System of the United States inviolate; to give adequate protection to American Industry; to foster and uphold Internal Improvements; and to vote for and advocate the renewal of the charter of the Bank of the United States, with such modifications as may be deemed necessary. Ayes, 31. Noes 14.*

## PENNSYLVANIA.

**GOVERNOR'S MESSAGE.**—In his annual Message to the Legislature, the Governor congratulates his fellow citizens on the prosperity of Pennsylvania and the Union, and on the decrease of crime, and especially of that great cause of it, intemperance. He recommends the total abolition of lotteries, as productive

of the worst effects. He thinks greater variety might be given to the agricultural products of Pennsylvania; wine and silk might, in the opinion of the most judicious thinkers, be added to these products. He urges the encouragement of agricultural societies, and the still more important subject of a general sys-



tem of education ; commends the Tariff, and invites the attention of the Legislature to the consideration of imprisonment for debt. The Judiciary system of the State is inadequate to its needs. The militia, he thinks, will never be the better for the present mode of drilling. The message enters into a detail of the various loans authorized for the public works, and into a history of the origin and progress of the system. The whole amount of money which has been paid to the Canal Commissioners, up to the 23d of November, is \$12,334,488 62, constituting a debt on the commonwealth which must be somewhat enlarged in order to complete the works in progress. The wetness of last year did much damage to the canals, which have therefore been less productive, and have required extensive repairs. Pennsylvania has now public works of this and like nature to the amount of more than thirty-seven millions of dollars, disbursed, either by the State or by corporations, since 1791. The part of it lying between Pittsburg and Lake Erie, and the northern districts also, require similar improvements properly to develop their resources.

**FINANCES.**— Summary statement of receipts at the State Treasury, commencing on the 1st day of November, 1831, and ending on the 31st day of October, 1832.

Lands and land office fees	\$63,622 16
Auction commission	16,000 00
Auction duties	113,537 09
Dividends on bank stock	173,230 00
Dividends on bridge, navigation and turnpike stock	21,170 00
Tax on bank dividends	43,761 41
Tax on offices	12,174 20
Tax on writs, &c	19,778 37
Fees, Secretary of State's office	537 53
Tavern licenses	58,795 67
Duties on dealers in foreign merchandise	69,783 48
State maps	228 25
Collateral inheritances	12,494 29
Pamphlet laws	88 28
Militia and exempt fines	1,463 27
Tin and clock pedlar's licenses	1,878 76
Hawkers' and pedlars licenses	3,191 69
Increase of county rates and levies	73,986 93
Tax on personal property	11,326 27
Militia fines per act of 1823	850 00
Escheats	2,132 43
Canal tolls	50,909 57

Loans	3,188,213 34
Premiums on loans	355,462 80
Stephen Girard's legacy	300,000 00
Old debts and miscellaneous	273 43

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\$4,594,889 22

Balance in the Treasury Nov. 1st, 1831	124,482 82
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\$4,719,372 04

*Payments during the same period.*

Internal Improvements	\$3,521,754 05
Expenses of government	228,803 75
Militia expenses	20,074 66
Members of courts martial, &c	1,487 77
Pensions and gratuities	24,888 20
Education	10,970 98
Interests on loans	91,925 00
Internal improvement fund	682,379 64
Penitentiary at Philadelphia	4,045 43
Penitentiary near Pittsburg	3,115 44
Conveying convicts	1,144 05
Conveying fugitives	1,188 77
Defence of the State	143 84
Miscellaneous	10,283 30

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\$4,602,204 88

Balance in the Treasury November 1st, 1832	117,167 16
	\$4,719,372 04

**ELECTION for Governor, 1832.** For George Wolf 91,235  
James Ritner 88,186

**COMMON SCHOOLS.** On the 2d of April, 1831, an act was passed for the establishment of a general system of education. It creates 'a common school fund,' appoints three commissioners to manage it, and assigns to it all moneys due for unpatented land, all moneys received for applications, warrants, and patents for land, fees in the land office, and a tax of one mill in the dollar laid by a law of the 25th of March, 1831.

The interest is to be added to the principal until the annual interest shall amount to \$100,000, when the interest shall be annually distributed throughout the State for the support of common schools. This will take place in 1839.

The number of children in the State between five and fifteen amounts to 351,038, of whom only about half are sent to school. The whole number sent to school at the public expense in 1832 was 23,592, at an expense of \$81,117, a less sum than is annually expended for that purpose by the city of Boston.

**LEGISLATION.**— The legislature at the session of 1831—32 passed two



hundred and fifty acts and thirtyeight resolutions.

Among them are the following, viz :

An act regulating the Registers' court, one in relation to the Orphans' court and one to establish a District court for the city and county of Philadelphia.

An act to promote the culture of silk, by allowing the governor to incorporate companies for the culture of the white mulberry tree and the manufacture of silk.

INTERNAL IMPROVEMENT. Eleven rail road companies were incorporated.

The following sums were appropriated for internal improvement from the State treasury.

Rail road from Philadelphia to Columbia	\$810,000
Canal from Middletown to Columbia	38,680
Canal from Huntingdon to Hollidaysburgh	310,000
Rail road over the Alleghany mountain	620,000
For repairs	300,000
For damages	100,000
	<hr/>
	\$2,248,680

The governor was authorized to borrow \$2,648,680, for the internal improvement fund, and the legacy of Stephen Girard of \$300,000, was appropriated to the same purpose. Eight Turnpike companies and seven bridge companies were incorporated.

An act exempting vessels engaged in the Pennsylvania coal trade from the health fee and from half pilotage.

Eight towns were erected into boroughs.

Six banking companies with an aggregate capital of \$2,900,000; five insurance companies; three fire companies; two hose companies; one exchange company; one steamboat company; one iron and coke company; and fourteen religious, charitable and useful associations were incorporated.

Annual pensions of \$40 were granted to fortythree persons, and gratuities of \$40 each to one hundred and six persons for revolutionary services.

An act was passed for the inspection of tobacco at Philadelphia. — Four acts of divorce were passed.

The corporation of Philadelphia were empowered to execute the trusts, and to improve the city, pursuant to the will of Stephen Girard. \$2000 were granted annually for 4 years to Jefferson College, as a foundation for the instruction of 6 students in indigent circumstances for 4 years; and for 24 students

thereafter in the elementary branches of an English education, so as to qualify them for teachers.

The following resolutions were adopted by the Senate 20 to 12, and by the house unanimously :

*' Resolved, by the senate and house of representatives of the commonwealth of Pennsylvania in general assembly met, That we view with the most serious apprehension any attempt to lessen the restrictions upon the importation of any articles of foreign manufacture, or production, which may compete with articles of similar growth, production, or manufacture of the U. States.*

*' And be it further resolved by the authority aforesaid, That a reduction of duties upon articles, the like of which are neither manufactured or produced in the United States, or which does not materially affect the industry of the country, would meet the approbation of our constituents.*

*' And be it further resolved by the authority aforesaid, That the people of Pennsylvania never can consent to an abandonment of the protective system.*

*' And be it further resolved by the authority aforesaid, That if a reduction of the revenue becomes necessary, we should prefer a prohibition of the introduction of articles of foreign fabric and production, the like of which we are successfully manufacturing and producing, to any reduction upon protected articles which we can produce and manufacture as cheaply and as good amongst ourselves.*

*' And be it further resolved by the authority aforesaid, That we view the American System, as a whole, which requires the united and concentrated operation of its friends against all attempts to attack it in detail, and that no steps should be taken to preserve one portion of it at the expense of another.*

*' And be it further resolved by the authority aforesaid, That the confidence of one interest in the aid and fellowship of another is the true shield of safety of the friends of the protected industry, and that such confidence should be cultivated and relied on throughout the Union.*

*' And be it further resolved by the authority aforesaid, That connected as the prosperity of agriculture and manufactures are with the successful financial operations and sound currency of the country, we view the speedy re-chartering of the bank of the United States, as of vital importance to the public welfare.*

## DELAWARE.

## EXPENSES OF 1832.

Judiciary	\$5,300
Governor	1,333
Secretary of State	400
Auditor	400
Attorney General and fees	350
Legislature	2,600
Incidental expenses	2,617
	<hr/>
	\$13,000

This does not include County expenses which each county pays for itself, nor expenses of Schools which are paid from the income of a School fund, the principal of which amounts to \$170,000, and from a small tax levied in each school district of four miles square by a vote of the taxable inhabitants.

The income of the fund is given only to those districts that raise an equal sum to their share of the fund.

LEGISLATION. — At the session commencing January 3d, 1832, the Legislature passed 86 acts and 8 resolutions.

Among them were the following: — An act declaring, that in any prosecution in the General Sessions, the fact of a bank having issued notes or being reputed an incorporated bank, shall be deemed *prima facie* evidence of the fact of incorporation, and unless rebutted, conclusive proof.

An act to carry into effect the amended constitution: prescribing the salaries of the several Judges, the places where the courts are to be held, the mode of appealing to the Superior Courts, and declaring that where the parties in interest shall be related to the Judge, either in the ascending or descending line, or his brother, sister, uncle, aunt, nephew, neice, son-in-law or brother-in-law, or where the Judge himself shall be directly interested in the question, or one similar thereto, it shall constitute a legal exception to the Judge; and the Governor is required, in case it shall be necessary to constitute a quorum, to commission a Judge *ad litem*.

The act also contains numerous provisions relating to the inferior officers of courts, and is worthy of the consideration of other legislatures.

An act declaring that the Superior Court may grant a divorce from the bonds, of matrimony or from bed and board, at its discretion, in cases where the party complained against had a former husband or wife living, or was guilty of adultery, wilful absence with the intention of abandonment for three years, extreme cruelty or impotency on the part

of the husband. — The confession of neither party not being admissible evidence.

Nine acts of divorce were passed.

An act declaring that no person shall be imprisoned for debt longer than five days, unless an affidavit be filed with the Clerk of the Court, alleging fraud, and naming the fraudulent transactions, or unless a bond for \$250 be given to indemnify the county against all expenses arising from the imprisonment of the debtor, either for the maintenance of himself or family. The creditor may at any time put an end to all future liability on the bond, by an endorsement thereon, and the debtor is thereupon to be discharged.

An act prohibiting, under a penalty of \$5, free negroes or mulattoes from keeping fire-arms without a license from a Justice of the Peace. Also prohibiting under a penalty of \$10, all meetings of free negroes or mulattoes of more than twelve in number, which shall continue longer than ten at night, unless under the direction of three white men: and prohibiting, under a penalty of \$50, any free negro or mulatto, not an inhabitant of the State from holding any meeting for the purpose of preaching or exhorting, without a license from a justice of the peace.

An act exempting vessels from any part of the State of Delaware from taxation by the State or county.

An act authorizing the recording of deeds exempted before Sept. 1831, until Sept. 1832.

An act for exempting lands belonging to and used by the Chesapeake and Delaware canal company, for the canal, from the taxes levied by any marsh company; and also inflicting a penalty on the masters of canal boats for showing false manifests of their cargoes.

An act appropriating \$10,000 for the support of the State government for 1832.

Five acts authorizing the proprietors of marshes to drain and reclaim them.

An act authorizing the Newcastle and Frenchtown rail road company to increase their capital to \$300,000, and to erect gates across the public roads intersecting the rail road, and to station gate keepers there.

Acts incorporating the Wilmington and Susquehanna rail road company, and in aid of the Wilmington and Dowington rail road company.

Acts incorporating one Insurance Company, and two associations for useful purposes.

A resolution in favor of the renewal of the charter of the U. States Bank.

A resolution concurrent with a resolution of the Legislature of Maryland for the improvement of the navigation through the sounds parallel with the Atlantic Coast, by the construction of

canals between Cape Charles in the Chesapeake and Lewistown creek in the Delaware bay, and appointing commissioners to act with commissioners, to be appointed by Maryland and Virginia to survey and lay out the routes of canals for such purpose.

## MARYLAND.

**FINANCES.**—By the last annual report of the Treasurer, it appears that

The actual income of the State for the year which ended on the 1st of December, was \$239,895,19

To which being added the balance in the Treasury on the 1st Dec'r, 1830, 54,106 88

The available aggregate amounted to \$294,002 07

The disbursements for the year, 216,824 43

\$77,177 64

Subject to appropriations to that day then uncalled for, 41,810 42

Leaving a clear unappropriated balance in the Treasury on the 1st of December, 1831, of \$35,367 22

Which will enable the Committee on Ways and Means to discharge the entire amount of the public debt, which is payable at the pleasure of the State.

**SCHOOL FUND.**—The whole amount of public funds for the support of Common Schools was, December 1, 1831, \$142,064. To this is added a tax on bank capital of 1-5 per cent.

The State also gives annually \$21,700 for divers colleges and schools, and \$3500 for the support of the indigent deaf and dumb.

**THE RAIL ROAD AND CANAL.**—

The legal question which has embarrassed the operations of the Baltimore and Ohio Rail Road Company, and the Chesapeake and Ohio Canal Company, has been decided by the Court of Appeals in favor of the latter; they reversing the opinion of the Chancellor which had been given in favor of the former. Both companies had selected the same route, on the north bank of the Potomac. The injunction having been removed, the Canal company have made contracts for their work as far as Harper's Ferry, and the Rail Road company, although obliged to change their plans, are confi-

dent in their ability to conclude the great work within the time originally contemplated.

**LEGISLATION.**—The Legislature at the session commenced December 26, 1831, passed 330 acts and 131 resolutions. Among the acts were, an act providing for the deportation of all the free blacks in the State, appropriating twenty thousand dollars to this object in 1832, and authorizing the borrowing of such further sums as may be necessary, to the extent of two hundred thousand dollars. The act provides for the appointment of three Managers, under whose direction the transportation is to be accomplished, and the blacks who are, or who may become free, will be sent to Liberia, or such other place without the limits of the State, as the Managers may think expedient, and the blacks willing to go to; and in case they refuse to be removed without the State, they will be arrested and transported forthwith. All slaves will be capable of receiving manumission for the purpose of removal, but it will be competent for slaves to renounce the benefit of such an act, if they are unwilling to be removed on account of connexions among the slaves. The Board of Managers have authority, when the Colonization Society declines transporting manumitted slaves and the removal devolves upon them, to employ the slaves until their wages produce sufficient to defray the expenses of attending the removal. Manumitted persons are to be offered, in the first instance, to the Colonization Society. The Sheriffs are to report to the Board the names, ages and sex of the free persons of color in their respective counties; specifying such as may be willing to remove.

An act incorporating the Maryland State Colonization Society.

An act which prohibits the removal of any free negro or mulatto into the State; provides, that, if any such shall come into, and shall remain ten days in the State, they shall be subject to a fine of fifty dollars for every week they shall



remain, and authorizes a sale for such time as may be necessary to pay the penalty. It prohibits, under a penalty, the employing any such free negro or mulatto. It prohibits the bringing slaves into the State for sale, after the first day of June next, under the penalty of forfeiture of the slaves, and a provision is made for their removal to Liberia, or elsewhere beyond the limits of the State.

The following resolution was also passed on the 28th of January, 1832, by both branches of the legislature, and forwarded to Congress.

Whereas, recent occurrences in this State, as well as in other States of our Union, have impressed more deeply upon our minds the necessity of devising some means by which we may facilitate the removal of the free people of color from our State, and from the United States. And whereas, an appropriation by Congress for the above objects would greatly relieve the States from the otherwise heavy burthens of taxation for that purpose — Therefore,

*Resolved, by the general assembly of Maryland,* That our Senators in Congress be instructed, and our Representatives requested, to use their exertions to obtain such aid from our national treasury, towards the furtherance of the above object, as may be in accordance with the constitution of the United States.

*Resolved further,* That should the aid of the national government be withheld, under the belief that the power to legislate on the subject is not granted to Congress by the constitution, that then our Senators and Representatives in Congress be requested to propose such amendment to the constitution of the United States, as will enable Congress to make such appropriation.

An act dividing the State into four districts for the election of electors of President and Vice President of the United States. All the counties on the eastern shore, with Harford, form one district to choose three electors, — Baltimore city a district, having two electors — Baltimore county a district with one elector — and the rest of the counties on the western shore a district to elect four electors.

An act to restrain private banking so far as to prevent the circulation of any bill, note or check, payable to bearer or order, or other evidence of debt, for a less sum than five dollars, under the penalty of fifty dollars for every offence.

An act was also passed regulating the weighing of articles, and declaring that

the hundred weight shall be one hundred pounds, and the ton two thousand pounds.

A resolution was passed for the settlement of the southern and western boundaries of the State. By this resolve, it appears that Maryland has revived her claim to that part of Virginia lying between the north and south branches of the Potomac, comprehending part of Hardy, Hampshire, Monongahela, the county of Preston, and part of other counties. The resolve provides for the appointment of Commissioners to meet such Commissioners as may be chosen by Virginia for the adjustment of the boundary line by mutual agreement; and in case of their disagreement, the Governors of the two States are to request the Governor of Delaware to appoint an umpire to determine the controversy.

An act regulating the admission of attorneys to practice law.

An act for the protection of the oysters in the waters of the eastern shore of the Chesapeake.

An act authorizing the Courts to bind to service, out of the county where convicted, but elsewhere either in or out of the State, any infant under the age of fifteen who shall be convicted of any indictable offence other than a malicious felony, and to compel such infant to comply with the terms of their judgment. The binding, however, is not to extend beyond sixteen years of age in females, and twentyone in males.

An act regulating the mode of distraining where the rent is payable in produce.

An act reducing into a system, the laws concerning powers of attorney from heirs and legatees, and releases and final discharges to executors, administrators and guardians.

An act forbidding coroners to hold an inquest unless there is reasonable ground to suppose that the deceased came to his death by felony, or died in jail.

An act enlarging and defining the powers of courts of equity.

Two acts for quieting possessions and enrolling conveyances.

An act amending the lottery system.

Twentysix acts were passed relating to the city of Baltimore, and twentyone to the county.

Twentyfour acts providing for the erection and repair of bridges, and an act providing for the preservation of the Cumberland road within the State, and authorizing toll houses to be erected.

There were incorporated at this ses-



sion, two Banks, five Saving Institutions, two Insurance Companies, two Library societies, one Lyceum, six Rail Road Companies, one Steam Towing Company, one Steam Navigation Company, one Transportation Company, one Steam Saw Mill Company, one Hose Company, two Religious Societies, one Chemical Company.

Fourteen acts of divorce were passed.

Acts for the inspection of flour, green hides and leather.

An act for issuing licenses to traders, milliners, lottery dealers, &c.

Pensions were granted to thirty persons for revolutionary services.

An act inflicting a penalty of twenty dollars for attempting to defraud the Delaware and Chesapeake Canal Company by a false manifest, and authorizing the master, &c, of the boat to recover five dollars for every day that he is improperly detained.

Resolutions were also passed recommending to Congress an efficient organization of the ordnance department, and an increase of the fortifications on the Atlantic coast:—and

Recommending a renewal of the charter of the United States Bank.

Also a resolution authorizing the governor to transmit annually three copies of the laws passed by the legislature, and one set of the reports of the decisions of the Court of Appeals, to the Executive of each State and Territory in the Union, and to request of them a copy of their laws and reports for the State Library.

A resolution requesting the governor to take such measures as he may deem expedient to prevent the re-construction of the Muncy and Shamokin dam in the Susquehanna, above the Pennsylvania line: the same having been recently carried away.

A resolution recommending the Chesapeake and Ohio Canal Company, and the Baltimore and Ohio Rail Road Company, to agree upon a joint construction of the

canal and rail road from the point of rocks on the Potomac to Harper's ferry.

The Baltimore and Ohio rail road was opened in November, 1831, from Baltimore to Parr's Spring Ridge, a distance of forty miles.

#### FINANCIAL.

##### *Taxes for 1831.*

On Lots	\$25,724
“ Land	149,192
“ Slaves (245,750)	61,437
“ Houses (282,864)	16,972
“ Stallions (1111)	9,777
“ Coaches (2982)	7,270
“ Stages (128)	190
“ Carryalls (1517)	1,571
“ Gigs (7856)	4869
“ Licenses to Merchants, Brokers, Jewellers, and Auctioneers	61,124
“ Do to Pedlars	3,269
“ Do to Ordinary keepers	15,783
“ Do to keepers of Boarding Houses	2,464
“ Do to Lottery dealers	4,727
“ Do to exhibitors of Shows	1,285
“ Tax on land and property in Norfolk County	3,000

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368,654

Expenses of collection 31,920

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\$336,734

##### *Appropriations for 1832.*

For expenses of the Legislature	\$85,000
“ Executive department	78,000
“ Commissioners of revenue	29,000
“ ‘Criminal charges’	42,000
“ Contingent expenses of courts	33,000
“ Pensions	3,000
“ Contingent fund	12,000
“ Militia	16,000
“ Public guard	15,650
“ Transportation of criminals to penitentiary	6000
“ For slaves executed and transported	30,000
“ Lunatic hospital	16,500

## VIRGINIA.

**FINANCES**—According to the report of the Treasurer, the amount on hand, October 31, 1831, was, of the ordinary Fund, \$106,595 71; Literary Fund, \$59,527 80; Internal Improvement, \$58,021 62; James River Company, \$67,969 26; Aggregate \$292,114 49. To which add the difference between the receipts and disbursements

to December 23d, \$203,435 85; on hand at that time, \$495,550 24.

**LEGISLATION**—The Legislature adjourned on the 21st March, 1832, after a laborious and agitating session of *one hundred and eight days*. They passed *two hundred and fortyeight* acts and four resolutions. Of the acts, eighty-eight were public acts.

**SLAVERY.**—The most important movement in the legislature at this session was in relation to the black population of Virginia. Shortly after the meeting of the legislature on the 14th of December, a petition was presented from the Society of Friends, passed at the annual meeting, suggesting that legislative measures be taken for the gradual emancipation of slaves and for their removal from the State. A petition was also presented from the slave holders of the county of Hanover, praying that steps might be taken for the removal from the State of all free negroes and mulattoes.

A motion was made that the former petition be rejected, but after an animated debate, the motion was negatived 27 ayes, 93 nays, and the petition, together with the other petition, was referred to a committee appointed for the consideration of that subject.

On the 11th of January the topic was again agitated by the presentation of a resolution in the House of Delegates by Mr Morris, for an inquiry into the expediency of taking steps for the abolition of slavery.

This resolution was afterwards withdrawn, but Mr Goode moved a resolution to discharge the select committee from the consideration of the subject. To this resolution Mr Randolph moved an amendment, which proposed to submit the question of gradual emancipation and removal to the decision of the qualified voters in the State. An animated discussion then ensued, which terminated at a late hour of the night, and the next day an effort was made to take the question without further debate, but the house determined further to consider the subject, ayes 116, nays 7. An elaborate examination of this important subject in all its bearings was then commenced, in which the ablest and most eloquent members of the House participated. After a debate of thirteen days, the following preamble and resolution were adopted by a vote of 64 to 59:

‘Profoundly sensible of the great evils arising from the condition of the colored population of this commonwealth: induced by humanity as well as policy, to an immediate effort for the removal in the first place, as well of those who are now free, as of such as may hereafter become free: believing that this effort, while it is in just accordance with the sentiments of the community on the subject, will absorb all our present means; and that a further action

for the removal of the slaves should await a more definite development of public opinion.

‘Resolved, As the opinion of this Committee, that it is inexpedient, for the present, to make any legislative enactments for the abolition of slavery.’

On the 28th of January, the select committee reported a bill for the deportation of free negroes from the State. This bill appropriated \$100,000 for 1832, and \$200,000 per annum for succeeding years for that purpose. After an alteration of the sums appropriated to \$35,000 for 1832, and \$90,000 for 1833, this bill was passed by the House of Delegates by a vote of 79 to 41. This bill excluded coercion, except as to those free negroes who remained in the State contrary to the law of 1806. It then provided for the deportation of all free negroes, and of such as may be emancipated, the owners not providing the means—to some place beyond the limits of the United States, left to the discretion of the central board. This board is to consist of the Governor, Treasurer, and Auditor, *ex officio*, who are clothed with the power of appointing agencies at Norfolk, Petersburg or other places.

This bill did not pass into a law, having been defeated in the Senate.

An act was, however, passed March 15th, in reference to the black population of the State, which was deemed necessary in consequence of the insurrection at Southampton in the summer of 1831. By this act all colored persons are prohibited from preaching or holding any assembly either for religious or other purpose, from attending any assembly held for the purpose of instruction by any colored person. Slaves are prohibited from attending meetings in the night, even when conducted by a white minister, without permission from their overseers. This act, however, is not to be construed to prevent licensed white clergymen from preaching to blacks in the day time, nor masters from employing white persons to give religious instruction to their slaves, nor the slaves of one owner from assembling at any time for religious worship.

All free negroes and mulattoes are prohibited from keeping any arms and ammunition under pain of forfeiture of the arms and of being whipped. And they are declared incapable of acquiring permanent ownership, except by descent, in any slave.

All colored persons are prohibited from disposing of any spirituous liquors within

a mile of any public assembly. Offenders against these provisions are to be whipped not exceeding thirty-nine lashes at the discretion of a Justice of the Peace.

If any colored person assault a white person with intent to kill, he shall suffer death. Any colored person printing or circulating any pamphlet and advising persons of color to rebel, shall be whipped for the first offence, and for the second offence shall suffer death. A white person so offending shall be fined not exceeding one thousand dollars.

The act also contains provisions for the punishment of riots, larceny, &c. by free persons of color, and declares that any free person knowingly receiving stolen goods from any colored person, shall be punished as if he stole them.

An act was also passed prohibiting the selling of any spirituous liquor to a slave without the written consent of his master, and inflicting a penalty of not more than fifty dollars on a master who gives a written permission to a slave to purchase spirit for the purpose of selling the same.

An act authorizing the inhabitants of Northampton county to borrow fifteen thousand dollars to remove the free persons of color from that county.

An act prescribing the duty of patrols and the penalties for neglect of duty.

An act authorizing the governor to furnish arms and accoutrements to volunteer companies legally organized. The companies are required to attend regimental and battalion musters, and to have a company drill once a month. Persons serving seven years in volunteer companies are to be exempt from militia duty except in case of insurrection or war.

An act authorizing a marriage license to be issued to infants having no father nor guardian, where the consent of the mother is given and proved in the manner prescribed by law.

An act authorizing the Board of Public Works, to assume the jurisdiction over that portion of the National Road passing through the Commonwealth of Virginia, whenever the Government of the United States shall consent to relinquish the same, and providing for the erection of toll-houses, and fixing the rates of tolls thereon.

An act providing for choosing Presidential electors, and seventeen acts respecting the local elections.

An act incorporating the James River and Kanawha Company, with a capital

of \$5,000,000, and a power to augment the same. Of the additional capital the State reserves the right to take two-fifths, and takes \$1,000,000 in the capital stock, and all over \$3,000,000 not taken by private subscription. The object of the company is to connect James River with the Ohio by means of a rail road and canal to the great falls of the Kanawha, and thence by improving that river to the Ohio. The works to be commenced within two years and completed within fourteen years, or the charter is to be forfeited.

Acts were also passed providing for the improvement of Goose creek, Craig's creek, the Monongahela river, and for extending the Lake Drummond and Orapeake canal.

Acts were passed incorporating six rail road companies with a capital of \$1,355,000, seven turnpike road companies, three bridge companies, ten manufacturing companies, one mining company, one insurance company, and five towns. There were also passed twenty-nine acts relating to common roads, of which eight authorized lotteries for repairing them: sixteen acts relating to certain bridges, of which four authorized lotteries: eight acts in relation to certain ferries, five acts authorizing the erection of certain dams: seventeen acts relating to certain towns, three acts in relation to forfeited lands, and an act providing for the inspection of Kanawha salt.

A resolution was passed remonstrating against the removal of the remains of Washington from the State pursuant to a resolution of Congress for the erection of a monument at the capital, and requesting the proprietor of Mount Vernon not to consent to such removal.

N. B. This consent was refused before the transmission of the resolution.

**PHILOSOPHICAL AND HISTORICAL SOCIETY.** — A meeting was held at the capitol, in Richmond, on the 29th of December, 1831, for the purpose of forming a Philosophical and Historical Society, the object of which is to collect and preserve materials for a civil and physical history of Virginia, after the plan of the Historical Societies of Massachusetts and New York. A constitution designating the officers proper to be appointed and their duties, was immediately adopted, and signed, and the following officers were elected: Chief Justice Marshall, President; Governor Floyd, first Vice President; President Cusling, second Vice President; John B. Clopton, Corresponding Secretary.



## NORTH CAROLINA.

## FINANCES for the year 1831.

Receipts into the Treasury	\$138,951
<i>Expenditure.</i>	
Expenses of the Legislature	\$40,663
Expenses of the Executive Department	2273
Expenses State Dept.	1143
“ Treasury Dept.	2004
“ Comptroller’s “	1000
“ Judiciary	23,830
“ Treasury notes cancelled	21,602
“ State Bank	3356
Other expenses	7515
	<hr/> \$103,386
Balance in Treasury	\$35,565

The State has also \$730,000 in bank stock, which, with other investments, makes a public fund of about \$1,000,000. The Governor (Montfort Stokes) in his message to the legislature November 22, 1831, says, that it would be impossible to conceal from the world and needless to disguise from ourselves, the fact that a certain class of the population of the State have become more discontented and ungovernable than heretofore. Fanatics of their own complexion, and other incendiaries, have fomented these discontents, and have incited them in many instances to enter into conspiracies dangerous to the peace and safety of the country. To guard against these evils, which in all probability will continue, the utmost caution and prudence are necessary. Restrictive laws have been enacted without producing the desired effect; and the crimes committed in a late insurrection in an adjoining State, would seem to require further and early attention to this subject. Instead of multiplying severe and sanguinary laws to operate upon those who know little and care less about them, would it not be advisable to establish a more efficient and accountable police, and to arm and equip one or more companies of volunteers or detached militia in each county, to be called out, for one or more years, when required, and to be paid while in actual service? It is believed that such a force, in aid of the civil authority, would effectually secure the peace of the country; and the public arms belonging to the State, for which they might be held responsible, could not be placed in safer hands.

He further observes that

‘ I would willingly bring to your no-

tice the important object of forming a navigable communication between the waters of the Albemarle Sound and the Atlantic ocean, north of Cape Hatteras, and would recommend the application of all the means in your power towards its accomplishment; but believing that, without the aid of the general government, the resources of the State are inadequate to the undertaking at this time, and the last general assembly having urged upon our members of Congress the propriety of claiming that aid, we must console ourselves with the hope that this great national work will receive the sanction and support of the national legislature. Having bestowed such immense sums towards the construction of roads and canals in other States, it is believed that this desirable object, so essential to the interests of North Carolina and of the Union, will not long be overlooked or neglected.’

LEGISLATION. — At this session of the legislature 49 public, and 120 private acts and 49 resolutions were passed.

Among the acts were

An act prohibiting, upon pain of being whipped not beyond 39 lashes, any person of color from preaching or exhorting in public or in any meeting where slaves of different families are assembled. Slaves are prohibited from going at large and exercising their discretion in the employment of their time as freemen, and also from keeping house as freemen and exercising a similar discretion, and owners conniving at this offence are to be fined not more than \$100.

An act directing the Sheriffs to hire out, for a period not exceeding 5 years, free negroes who are not able to pay any fine imposed upon them, to any person that will pay the fine. Free persons of color are prohibited from peddling without a license from the Court of Common Pleas of the county.

The act of 1830-31 subjecting vessels, with free persons of color on board, to 30 days quarantine is repealed.

An act pointing out the mode of calling out the militia in case of insurrection.

An act directing the governor in case of an insurrection among the slaves to issue a commission of Oyer and Terminer for the immediate trial of such slaves. In all trials of slaves for capital offences the defendant is to be entitled to a jury of slave-holders.

An act providing for the assignment



of dower and the partition of the real estate of deceased persons, where part of the land lies in North Carolina and part in other States.

An act declaring that where a death resulting from an assault shall happen in a county different from that in which the assault was made, the offender shall be indicted in the county where the assault was made.

An act declaring, that if any person with malice aforethought castrate another, he, together with his abettors privy to the offence, shall suffer death: if without malice aforethought, he shall be imprisoned not less than six months and fined at the discretion of the court.

This severe law was passed in consequence of the perpetration of this offence by Robert Potter, a member elect to Congress from that State, upon a young man and an aged clergyman when under the influence of unfounded jealousy.

For these assaults he was sentenced to the state prison for six months and two years; but public opinion was so

much excited that a more severe punishment was enacted for the offence.

An act was also passed declaring, that any person displaying any false light and beacon on the sea coast for the purpose of deceiving mariners shall be fined and imprisoned at the discretion of the Court.

An act abolishing the punishment of cutting off the ears, except in cases of perjury or subornation of perjury in capital trials. In lieu thereof whipping is substituted.

Several acts were passed to prevent the obstruction of rivers.

Seventeen acts for the better regulation of the Courts of the different counties; 9 acts relating to the compensation of Jurors; 4 acts authorizing the erection of gates across the roads; and 21 acts relating to the militia, of which 17 companies were incorporated.

There were also incorporated 8 academies, 7 gold mining companies, 2 manufacturing companies, 1 library society, and 3 rail road companies, with a capital of \$4,060,000.

## SOUTH CAROLINA.

### FINANCES.

The State debt amounted	
Dec. 1831 to	\$1,753,771
Annual interest	\$91,913
Receipts for year ending Sept. 30, 1831,	276,836
Balance in Treasury,	
Oct. 1, 1830	113,753
Expenditure for year ending Sept. 30, 1831	235,302
Balance in Treasury	
Oct. 1, 1831	108,487
The entire sinking fund Oct. 1, 1831, was	422,853
The capital of the state bank	1,156,318
Profits of do. for 1831	120,000

NULLIFICATION. — The determination of a few political leaders in this State to dictate a course of policy to the General Government had been so energetically followed up, that after a vehement and protracted contest, they obtained complete control over the government of the State.

One of their first steps after becoming a majority in the legislature in 1830, was to elect James Hamilton, Jr. Governor; and an attempt was made to pass a law, authorizing a State convention with the view of nullifying the obnoxious laws of the national government. This attempt failed, as the majority of the nullifiers did not constitute

two-thirds in the two branches of the legislature — that being the majority required by the constitution for that purpose.

No opportunity however was lost to augment the excitement existing against the tariff.

The associations which had been formed ostensibly for the promotion of Free Trade and State Rights, were unusually active in circulating tracts and addresses, illustrating their principles; and their orators and public men were constantly occupied in enforcing their views upon the public mind. Meetings were held and public dinners given for the purpose of bringing together the zealous and the lukewarm, and to impart, through the contagious influence of sympathy, the same ardent feelings to the mass, that glowed in the bosoms of the leading nullifiers.

As one of the modes devised to effect their object, payments were refused of bonds given for duties imposed under the tariff of 1828, and an attempt was made to bring the constitutionality of the act in question in the suits brought for their collection.

These bonds were given by Messrs Holmes, Masyck and Gadsen, to the United States, on an importation made for the purpose of testing that question.

At the September term of the United States District Court 1831, Mr Gilchrist

moved for judgment under the 65th section of the revenue act of 1799, on the ground that the defendants had not alleged an error in the assessment of the duties of which the collector had notice.

The counsel for the defendants then moved that the defendants have leave to plead.

Mr Holmes, for the defendants, insisted that they had a right to put in any plea that the defence should require. That the very institution of a proceeding by suit, carried with it the incidents of a suit, and that pleading was one of those incidents. That the exception in the act of 1799, had reference solely to a motion for continuance, and that any other construction would be an infringement of the right of jury trial.

Mr McDuffie followed, on the same side, repeating and enforcing the objections urged by Mr Holmes, and claiming the right of going to the jury, as the only satisfactory mode of deciding the constitutional question.

Mr Petigru, for the United States, admitted that the defendants were entitled to file any plea that would present an issue of fact for the jury; but that it was too obvious to admit of doubt, that the design was under the show of pleading to transfer the real point in dispute from the judge to the jury; which could not be permitted. His honor the judge, having decided that the defendants were at liberty to plead, they immediately filed the plea of *non est factum*; on which issue was joined, and the cause submitted to the jury.

The district attorney then proved the execution of the bonds. The defendants then called a witness, and asked him the question, whether the bonds had not been given for duties imposed by the tariff of 1828? This question elicited the main argument on both sides.

The United States counsel objected that the testimony could not be admitted under that plea. The objection was urged by Mr Petigru, and sustained by the most luminous view of the subject, aided by the decided cases in England and this country. Mr McDuffie replied at considerable length. His honor ruled that the testimony was not admissible.

The defendant's counsel then varied their motion in form, by asking leave to go into evidence of the want of consideration for the bonds; on the ground of having given notice of such defence before trial; but the court thought that this motion could not be distinguished from that which had been previously decided.

After the conclusion of the argument the court, in its charge to the jury, briefly stated to them that it was a suit on a bond — that the execution of the bond had been duly proved — and that there was no evidence before the court and jury to invalidate the bond.

The jury found for the United States the amount of both bonds.

Judge Lee delivered a few days afterwards an elaborate opinion, in which, after examining the whole subject, he decided that the defendants under the plea of *non est factum*, could not go into evidence impeaching the validity of the bonds.

This decision was declaimed against, as another instance of tyranny on the part of the federal government; and at the next session of the legislature, a law was passed, permitting evidence to be given in the state courts, under the general issue, for the purpose of showing the consideration for which a bond was given.

Another law was passed, laying a tax of two per cent upon the United States bank stock, and upon all stock of moneyed incorporations without the state.

A bill to transfer the election of presidential electors to the people was rejected.

The complexion of the legislature in which the choice was vested, had become decidedly unfriendly to the re-election of General Jackson — and a letter of his to certain members of the union party, dated June 14, 1831, in which he had disapproved of the movements of the nullifying party, was mentioned in the message of the governor to the legislature. It was referred in the senate to a committee, which made an elaborate report upon the subject. This report concludes with two resolutions, one affirming that the President's letter 'is at once at variance with his duties and the rights of the State,' and the other, that whether the threat contained in the letter (to enforce the laws by military power,) was aimed at the freedom of discussion, or at the sovereign authority of South Carolina, it is equally entitled to the decided reprehension of this legislature, and is incapable of exciting any other than an augmented resolution to maintain inviolate the federal principles of the compact. The report pronounces the threat 'equally impotent and unwise,' and denies that the President, or even Congress itself 'has any power to call out the military of the State,' for the purpose of enforcing a law 'passed on dubious and disputed authority.'

The President's Message to Congress having been received during the session, when this report came up, to be acted upon, the following resolutions were adopted :

*'Resolved, That the letter of the President of the United States is an unauthorized interference in the affairs of the State; that the principles advanced in it are incompatible with the constitution, and subversive of the rights of the States; that the threatened course of Executive conduct would, if acted upon, destroy the liberties of this country; and a threat is of dangerous precedent, and highly repulsive to the feelings of a free people.'*

*'Resolved, That while the legislature has felt bound thus to notice the letter of the President, it has no desire to array itself in hostility towards him; but, on the contrary, at this moment entertains feelings of gratification in considering the late message of the President as affording indications of a change of opinions more favorable than heretofore to the principles maintained by this State.'*

At a caucus meeting of the members of the legislature, called on the 29th of November, an attempt was made to nominate General Jackson, as the candidate of South Carolina, for the Presidency. This motion was acceded to by fifty-eight members, but in the representative hall, where eightysix members were present, the following resolution was unanimously adopted :

*'Resolved, That the State of South Carolina, being engaged in a contest for great constitutional rights and interests of paramount importance, it is inexpedient at this time to involve her in the struggles of the Presidential election, or to pledge her to any particular candidate.'*

The whole number of acts passed at the session of 1831 was 32, and after the adjournment both parties exerted themselves to obtain an ascendancy in the next legislature.

After a vehement contest this ascendancy was obtained, and Governor Hamilton immediately issued his proclamation convening the legislature to meet on the 22d of October, the constitutional time of meeting being the 4th Monday of Nov. in each year.

Upon the meeting of that body, the Governor addressed a message, stating that he had called them together for the purpose of vindicating the reserved rights of the State, and the legislature,

with great promptness, by a vote of 31 to 13 in the Senate and of 96 to 25 in the House, passed the following act.

*'Whereas, the Congress of the United States hath on divers occasions enacted laws laying duties and imposts for the purpose of encouraging and protecting domestic, or American manufactures, and for other unwarrantable purposes, which laws, in the opinion of the good people of this State, and the legislature thereof, are unauthorized, by the constitution of the United States, and are an infringement of the rights reserved to the States respectively, and operate to the grievous injury and oppression of the citizens of South Carolina.—And, whereas, to the people assembled in convention it belongs to determine the character of such acts, as well as the nature and extent of the evil, and the mode and measure of redress.*

*'Be it further enacted, by the Senate and the House of Representatives of the State of South Carolina, now met and sitting in general assembly, and it is hereby enacted by the authority of the same, That delegates of the people of the said State shall be assembled in convention, at Columbia, on the third Monday in November next, then and there to take into consideration the several acts of the Congress of the United States, imposing duties on foreign imports for the protection of domestic manufactures, or for other unauthorized objects; to determine on the character thereof, and to devise the means of redress: and further in like manner to take into consideration such acts of the said Congress laying duties on imports as may be passed in amendment of, or substitution for, the act, or acts aforesaid, and also all other laws, and acts of the government of the United States which shall be passed, or done, for the purpose of more effectually executing and enforcing the same.*

*'Sec. 2. And be it further enacted by the authority aforesaid, That on the second Monday in November next, and on the day following, the managers of elections for the several election districts and parishes, in this State, shall, after giving public notice, as in the cases of elections for members of the legislature, open polls, and hold elections in their respective districts, and parishes, in all respects, in the same manner, and form, and at the same places, as elections are now conducted for members to the legislature, for delegates to the said convention, and all persons who are qualified,*



and entitled by the constitution and laws of this State to vote for members to the legislature, shall be qualified, and entitled to vote for said delegates to the said convention; and in case of any vacancy occurring by death, resignation, removal from the State, or refusal to qualify any person elected as a delegate to said convention, the presiding officer of the said convention shall issue his writ of election, authorizing and requiring the managers of elections in the district or parish in which such vacancy may happen, after giving due notice thereof, to open a poll, and hold an election to supply such vacancy, as in cases for the election of members of the legislature.

'Sec. 3. *And be it further enacted by the authority aforesaid*, That each district and parish throughout the State, shall be entitled to elect, and send to the said convention, a number of delegates equal to the whole number of senators and representatives which such district, or parish is now entitled to send to the legislature; and the delegates to the said convention shall be entitled to the same freedom from arrest, in going to, returning from, and while in attendance on, the said convention, as is extended to the members of the legislature.

'Sec. 4. *And be it further enacted by the authority aforesaid*, That all free white male citizens of this State, of the age of twentyone years, and upwards, shall be eligible to a seat in said convention.

'Sec. 5. *And be it further enacted by the authority aforesaid*, That the said convention may be continued by adjournment from time to time, so long as may be necessary for the purpose aforesaid; provided, however, that unless sooner dissolved by their own authority, the said convention shall cease and determine in twelve months from the day on which the delegates to the same were elected.'

The legislature then adjourned on the 26th October, to meet on the 4th Monday of November, and steps were immediately taken to elect the members of the state convention.

The Union party at once determined to take no measures to be fully represented in the convention. The nullifiers accordingly obtained a large majority in that body, which met on the 19th of November, 1832. The Governor of the State was elected the President of the convention, and upon taking the chair made an address in which he designated

the convention as a concentration of the sovereignty of the people.

The obnoxious acts were referred to a committee, who reported the following ordinance, which was at once passed by a vote of 136 to 26.

#### AN ORDINANCE

To provide for arresting the operation of certain Acts of the Congress of the United States, purporting to be laws laying duties and imposts on the Importation of Foreign Commodities.

'Whereas, the Congress of the United States, by various Acts purporting to be Acts laying duties and imposts on foreign imports, but in reality intended for the protection of Domestic Manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just power under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burdens of taxation upon the several States and proportions of the Confederacy. And, whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorized it to effect and accomplish, hath raised and collected unnecessary revenues, for objects unauthorized by the Constitution :

'We, therefore, the People of the State of South Carolina in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several Acts and parts of Acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importations of the United States, and more especially an Act entitled 'An Act in alteration of the several Acts imposing duties on imports,' approved on the 19th day of May, one thousand eight hundred and twenty-eight, and also an Act entitled 'An Act to alter and amend the several acts imposing duties on imposts,' approved on the 14th July, one thousand eight hundred and thirtytwo, are unauthorized by the Constitution of the United States,



and violate the true meaning thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts and obligations made or entered into, or to be made or entered into, with the purpose to secure the duties imposed by the said Acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

*‘And it is further ordained,* that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said Acts within the limits of this State; but that it shall be the duty of the Legislature to adopt such acts as may be necessary to give full effect to this Ordinance, and to prevent the enforcement and arrest the operation of the said Acts and parts of Acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined, to obey and give effect to this Ordinance, and such Acts and measures of the Legislature as may be passed or adopted in obedience thereto:

*‘And it is further ordained,* That in no case of law or equity, decided in the Courts of this State, wherein shall be drawn in question the authority of this Ordinance, or the validity of such Act or Acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid Acts of Congress, imposing duties, shall any appeal be taken, or allowed, to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the Courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal; and the person or persons attempting to take such appeal may be dealt with for a contempt of the Court.

*‘And it is further ordained,* That all persons now holding any office of honor, profit or trust, civil or military, under this State, shall within such time as the Legislature shall prescribe, take, in such manner as the Legislature may direct, an oath well and truly to obey, execute and enforce this ordinance, and such other acts of the Legislature as may be passed

in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices, shall be forthwith vacated, and shall be filled up, as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit or trust, civil or military, shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be impanelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath, that he will well and truly obey, execute and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

*‘And we, the People of South Carolina,* to the end, that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this, our ordinance and declaration, at every hazard, do further declare, that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of any military or naval force against the State of South Carolina, her constituted authorities or citizens, or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels, to and from the said ports, or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of other States, and will forthwith proceed to organize a separate Government, and do all other acts and things, which sovereign and independent States may of right do.’

An address was then framed to the people of the United States, and the convention adjourned on the 23d of November. The legislature met on the 25th of No-

vember and passed the acts required by the Ordinance, but as they properly belong to the history of a subsequent year, they are reserved for a future volume.

GEORGIA.

ELECTIONS. — 1831. For Governor.  
Wilson Lumpkin, 27,805  
George R. Gilmer, 25,863

The Legislature convened on the 7th of Nov. 1831. In the Senate, Thomas Stocks had 38 votes for President of that body, and Thomas Wooten, 37.

In the House for Speaker, the parties stood, for Ashbury Hull 76, John Baies 53.

Governor Gilmer, in his message, states that, 'Immediately after the law was passed authorizing the formation of a guard, forty mounted men were organized under the direction of active and intelligent commanders, and stationed within the territory occupied by the Cherokees, with orders to prevent trespasses upon the Gold Mines, to suppress the authority of the Indian Chiefs, and to remove all white men from among the Cherokees, who did not obtain licenses to continue their residence as required by law. The difficulty of removing lawless persons from the mines, proved to be greater than had been at first anticipated, and was only overcome by the use of the most vigorous measures. The mines are, however, situated so far apart from each other, that it has been found impossible to prevent occasional trespasses upon them. This can only be prevented by having them worked under the authority of the State.

'An unexpected difficulty has been placed in the way of an efficient protection of the mines, by the decision which has been lately made by the Judge of the Western circuit, that the law which renders it penal for Indians to dig for gold is unconstitutional. It having been made the special duty of the Governor to take possession, of the mines, and to defend them from trespass, and having no doubt about the constitutionality of the law, I considered myself compelled to obey its requirements. Orders were accordingly given to the guard, to arrest all persons who might attempt to dig for gold, leaving it to the judiciary officers to commit or discharge as they might think proper. There is reason to apprehend, that the decision of the

court has thrown an almost insuperable obstacle in the way of the efforts, which are now making by the United States, to induce the Cherokees to emigrate.

'Of the white men who have been residing among the Cherokees, two hundred and three have taken the oath to support the constitution and laws of the State, and received licenses to continue their residence. A most obstinate and perverse opposition has been made to the authority of the State, by certain persons representing themselves to be religious Missionaries, and particularly those who have acted under the direction of the Board of Foreign Missions in Boston.

'Twelve persons have been convicted for illegal residence, and sentenced to confinement in the penitentiary. They have all been pardoned upon the condition that they would not again offend against the laws, except two of the agents of the Boston Board, who refused to be the subjects of Executive clemency, upon such terms.

'The enforcement of the Cherokee laws has been completely suppressed within this State. No disposition has, however, been evinced on the part of the Indians to become members of our community. The mass of the people are indeed not prepared for it, and would, no doubt, have long since accepted the offers of the United States Government, to give them possession of a territory to the West of the Mississippi, in exchange for their present occupant rights, but for the controlling influence of a class among them, almost exclusively made up of the descendants of the whites. The State owes it to itself, to put an end to this state of things, so far as it can be done consistently with the rights of the aborigines.

'For this purpose I would specially recommend, that you pass laws, requiring, under adequate penalties, all the Cherokees who have received reservations in fee, or been paid for their improvements, and who have again settled upon the lands occupied by the

tribe within this State, to remove therefrom.

'4. The Governor states that the Cherokee territory has been surveyed agreeably to the requisitions of the Act of the last session, and organized by the election of two justices of the peace, and two constables for each section. He recommends the formation of the whole territory into one county, for the better execution of the laws of the State, and the advancement of the interests of the territory.

'5. The Governor recommends the adoption of resolutions authorizing the President of the United States, to grant reservations in fee, to such Cherokees as wish to remain in Georgia, cultivate the land, and submit to the laws.

'6. He expresses the opinion that the law of the last session for the distribution of the Cherokee land, should not be repealed, in that clause which requires the Act to go into operation only when the Indian title will have been extinguished, and remarks, that if it should be repealed, and the Cherokee lands distributed according to its provisions, the effect would be, to deprive our Indian population entirely of their possessions without their consent and without any equivalent. The character of the State, the interest of the Union, respect for public opinion, and the rights of the Indians, forbid that so gross an act of injustice should be committed.'

After Governor Lumpkin was inaugurated, which took place on the 9th of November, he addressed a message to the legislature, dated the 25th of that month, stating that he had received the day before two citations to appear in the Supreme Court in behalf of the State, on the 2nd Monday of January, 1832, to shew cause why the judgments rendered in the Superior Court of Gwinnett County against S. A. Worcester and E. Butler should not be set aside. Upon receiving that message the following resolutions were introduced in the Senate, and passed that body unanimously, and subsequently received the sanction of the House.

*Resolved by the Senate and House of Representatives of the State of Georgia, in General Assembly met,* That the act of the last Legislature, making it penal to reside within the limits of the lands belonging to the State, in the occupancy of the Cherokee Indians, without having taken a license from the Governor, and without taking

the oath to 'support the constitution and laws of Georgia, under which Samuel A. Worcester and Elizur Butler, were convicted at the sitting of the last Superior Court of Gwinnett county, is not in violation of either the letter or the spirit of the Federal Constitution.

That the State has the right of civil and criminal jurisdiction over the whole of the lands within her chartered limits, and that this jurisdiction does of right extend to all the persons and things within those limits.

That 'the powers not delegated by the Constitution to the United States, nor prohibited by it to the States, are reserved to the States respectively'—And that a right to interfere with and control the criminal jurisdiction of the States has not been delegated by the Constitution, to the United States or its Courts; nor is the right of exclusive and final jurisdiction in all criminal cases, prohibited by the Constitution, to the States—

That by the constitution of the State of Georgia, final and conclusive jurisdiction in criminal cases, is vested in the Superior Courts of the several counties of this State; and when these Courts have pronounced the sentence of the law, no Court has the right to re-hear, overrule and reverse their decisions, or in any way impede the execution of their decrees—

That any attempt to reverse the decision of the Superior Court of Gwinnett county, in the case of Samuel A. Worcester and Elizur Butler, by the Supreme Court of the United States, will be held by this State as an unconstitutional and arbitrary interference in the administration of her criminal laws, and will be treated as such—

That the State of Georgia will not compromise her dignity, as a sovereign State, or so far yield her rights as a member of the confederacy, as to appear in answer to, or in any way become a party to any proceedings before the Supreme Court, having for their object a reversal or interference with the decisions of the State Courts in criminal matters—

That His Excellency the Governor be, and he and every other officer of this State, is hereby authorized and requested to disregard any and every mandate, order, process, or decree, that has been or shall be served upon him or them, purporting to proceed from the Chief Justice or any associate Justice of the Supreme Court of the United States,



for the purpose of arresting or impeding execution of the sentence of the State Courts in criminal cases —

That His Excellency the Governor be and he is hereby authorized and required, with all the means placed at his command by the constitution and laws of this State, to resist and repel any and every invasion, from whatever direction it may come, upon the administration of the criminal laws of this State.'

**LEGISLATION.**—The Legislature adjourned on the 24th of December, after passing one hundred and eightyfive acts and fiftyfour resolves. Among them was a law to lay out the gold region in the country occupied by the Cherokees, into small lots, and dispose of the same by lottery. 'The law divides the reservation into lots of 40 acres, and gives to every citizen of Georgia over 18 years of age, who has resided there three years, one draw, and to every married man an additional draw. The number of tracts will be about 40,000, and the price of the grants \$10. All citizens are, by the bill, permitted to have an interest and a chance for a share of this El Dorado, and the number of grants at \$10 will produce, after deducting the expenses, a fund estimated at above \$300,000. The bill passed the Senate by a majority of one vote only; the House by a vote of 75 to 30.' An act was also passed requiring the Governor to order out the district surveyors of the Cherokee territory without delay, and in case 'he shall deem it for the interest of the State,' to order the land lottery to be drawn.

A report and resolutions against rechartering the Bank of the United States passed the Senate unanimously, and were laid on the table in the House, by a vote of 65 to 57. A bill was passed abolishing Penitentiary imprisonment, and resuming the ancient punishments.

An act was also passed authorizing Indians about to enroll themselves for emigration, to let to citizens their improvements for one year, and authorizing the State agent to sanction the contract.

An act requiring pedlers in wagons or on horses, &c, to pay \$2000, and pedlers on foot to pay \$1000 for a license, 'except traders in tin, stone, earthen and iron ware actually manufactured in the State.' This act also imposes a fine of \$1000 on pedlers who shall trade with a slave except with the permission and in the presence of the owner.

An act declaring that unless the holder of any instrument shall proceed to collect the same within three months after being required by the surety so to do, the endorser or surety shall be discharged.

An act authorizing the Board of Physicians to examine applicants for license to practice, notwithstanding they exhibit diplomas from a Medical College.

An act directing Justices of the Peace to give notice to clerks of the inferior courts so that the right of plaintiffs to levy their executions on estrays may be tested.

Twentyfour divorce acts were passed.

Twentytwo acts dividing counties: ten acts fixing the time of holding courts: seven acts relating to the militia: nineteen acts relating to roads and rivers: three banks, fourteen academies, nine churches, one masonic hall, and one railroad company were incorporated.

A resolution was passed offering a 'reward of five thousand dollars to any person or persons who shall arrest and bring to trial, under the laws of Georgia, the editor or publisher of a certain paper called the Liberator, published in Boston, Mass., or any other person or persons who shall utter, publish, or circulate within the limits of Georgia, the said paper called the Liberator, or any other paper, circular, pamphlet, letter, or address, of a seditious character;' and directing the Governor to pay the same out of the Treasury.

Fifteen hundred dollars were appropriated for procuring copies of the records in the public offices in London relating to the early history of the State.

The following resolutions relating to nullification were taken into consideration on the 22d of December by the House.

*Resolved by the Senate and House of Representatives of the State of Georgia in General Assembly met,* That the Tariff of 1823 does not accord with the spirit of the Constitution of the United States, but (when the object and effect of the act is considered,) is a palpable violation of it.

That it is inexpedient, oppressive, unequal, and destructive to the great leading interests of the South — pecuniary and political.

That each State of the confederacy is in the full exercise of all rights of sovereignty, except such rights as have been granted to the United States, in the Federal Constitution.

That the right to impose duties upon articles of trade, for the protection of domestic industry, has not been granted to the Federal Government, by the States, in the Federal Constitution; nor can such right be yielded, so far as the people of Georgia are concerned.

That in case of a palpable and dangerous violation of the Constitution, each State, in its sovereign capacity, has a right to judge for itself, and pronounce upon the constitutionality of the acts of the Congress of the United States; and each State in its sovereign capacity, has the right to judge of and act upon the mode as well as the measure of its redress.

That when in the course of Federal Legislation, it becomes necessary for a State to pronounce upon the constitutionality of an act of Congress, and to prescribe to herself the mode, as well as the measure of her redress, it is a question not of right, that question being settled, but a question of expediency, having exclusive reference to the consequences which may grow out of the exercise of that right.

The first resolution was adopted, yeas 92, nays 11.

The second, third and fourth resolutions were adopted without a division.

When the fifth was read, a motion was made to lay that and the sixth on the table for the remainder of the session, and after discussion, the question was taken and decided, yeas 87, nays 26.

This result in a Legislature which had sanctioned with so much unanimity, the nullifying resolutions relating to the jurisdiction of the Supreme Court of the United States was not a little surprising, and manifested an inconsistency only to be explained through the medium of self interest.

An act was also passed authorizing the Mayor or the Judge of Oyer and Terminer for Savannah, to order an extraordinary Court for the summary trial of causes, wherein mariners, or owners, or consignees of vessels shall be parties, upon the petition of the mariner, owner or consignee—also prohibiting the arrest of any article seaman on civil process for twentyfour hours before the advertised time of sailing of the vessel, and the lodging a detainer by the keeper of a tavern or tippling house against a seaman, where the seaman has been committed by the captain or owner.

## ALABAMA.

**NULLIFICATION.**—The success of Georgia in setting aside a law of Congress obnoxious to her citizens, now encouraged the government of this State to follow in the same path. In the session of 1831-32, a law was accordingly passed extending the civil and criminal jurisdiction of the State over all the Indian territory within its limits. By this act the commissioners courts of roads were authorized to cause all such roads, bridges, and ferries within the Indian territory as they should think proper.

All Indian laws and usages contrary to the laws of the State are declared to be void.

Indians meeting in counsel or assembly, and making any laws contrary to the laws of the State, are to be imprisoned not less than two, nor more than four months. This however is not to prevent their meeting in counsel to confer with an agent of the State, or of the federal government; and any person dissuading them from attending such meeting is to be imprisoned for three months.

Persons attempting to confiscate the property of Indians in consequence of

their enrolling as emigrants are to be imprisoned from two to four months.

In all suits brought to recover property from an Indian the consideration must be proven by two witnesses, except contracts made for the purchase of improvements or claims on the unceded territory which may be sustained, if reduced to writing and executed in the presence of one white man, provided a valuable consideration be paid and possession given. Indians are not to be compelled to perform military duty, to work on roads, serve on juries, nor to pay taxes; and they are to have the same privileges, within the county of their residence, of perpetuating testimony, recording wills, bills of sale and conveyances with Indian testimony, that white men have in their respective counties with white testimony.

An act was also passed prohibiting the introduction of slaves into the State, but emigrants may bring their own slaves with them, and citizens of the State may import such slaves as may have become theirs by inheritance, by will or marriage.

When such slaves are introduced in conformity with the act, returns are to

made upon oath, to the county courts, within thirty days, describing the slaves and declaring that they are not introduced for the purpose of sale, hire or traffic. The act also prohibits slaves thus introduced, from being sold, hired, &c, for three years and one month after their arrival in Alabama.

Failure to make the requisite return is to be punished by a fine of \$200. Every slave introduced by emigrants, legatees, &c, with intent to violate the act, is to be forfeited, and the importer is to forfeit \$250 for each slave thus introduced, and importers not of the enumerated class are to forfeit \$250, and to be imprisoned three months.

These provisions, however, are not to apply to the slaves of travellers, nor of citizens who may be removed out of the State for a temporary purpose; nor are they to be construed to prevent citizens from importing slaves for their own use, subject to the same rules prescribed for emigrants, &c.

It also directs that all slaves imported within thirty days previous to the passage of the act should be removed from the State within thirty days; and provides that if any free person of color should settle in the State after January, 1833, and not depart within thirty days after notice of this act, he should be whipped with not more than thirtynine lashes, and if he continue to remain he is liable to be sold as a slave.

Any person attempting to teach any person of color to spell, read or write, shall be fined not less than \$250 nor more than \$500.

Free persons of color writing passes or free papers for slaves are to be whipped thirtynine lashes, and banished on pain of forfeiture of freedom for ten years if again found within the State. Slaves offending in this manner are to be whipped fifty lashes for the first, and one hundred lashes for each subsequent offence. Persons circulating or publishing pamphlets, &c, tending to produce insurrection among the slaves, shall suffer death. Free persons of color are forbidden from trading or associating with slaves without a written permission of the master under penalty of being whipped.

The assembling together of more than five male slaves, without their masters, at any place off the plantation to which they belong, is declared unlawful, and the slaves are to be dispersed and whipped. This act, however, is not to prevent free persons of color nor slaves from attending places of public worship held by

white persons; but slaves and persons of color are prohibited from preaching and haranguing to persons of color, except in the presence of five respectable slaveholders, under pain of being whipped. Slaveholders neglecting or refusing to provide their slaves with a sufficiency of food and clothing are subjected to a fine not exceeding \$500.

An act was also passed constituting the Judge of the County Court and two Justices of the Peace into a Court for the trial of slaves and free persons of color, charged with any crime higher in degree than petit larceny. In trials under this act no indictment is required, but simply a brief statement of the offence, signed by the prosecuting Attorney. If the owner of the slave shall not employ counsel to defend him, the court are required to appoint counsel for that purpose, who are to be paid by the county a counsel fee of \$10.

Persons of color capitally convicted, are to be executed in not less than five nor more than ten days from the time of passing sentence, except in cases of insurrection, when they may be executed forthwith.

An act authorizing the Circuit Courts to decree divorces, in cases of adultery or abandonment, for the space of three years, or where the husband's treatment of the wife is cruel, barbarous and inhuman.

An act authorizing the transfer of causes from the County to the Circuit Court, where the county judge is related to either party by affinity or consanguinity.

The powers of the Supreme Court are vested in three judges elected by the legislature in joint ballot, for six years, with a salary of \$1700 each.

Provision was made for digesting all the statute laws now in force.

An act exempting land belonging to Academies from taxation. A similar act in favor of Churches to the extent of two acres for each church.

An act to establish a branch of the bank of the State of Alabama at some place, to be designated by the legislature, and pledging the credit of the State for the redemption of its notes, and the payment of its debts.

An act requiring pedlars of clocks to take out licenses, for which \$50 is to be paid.

A board of wardens and harbor masters were established for Mobile; and a tonnage duty of three cents per ton imposed on every vessel entering that port.



Acts were passed incorporating one Manufacturing company; four Military companies; one Bridge company; three Academies; three Rail Road companies; and one Steam Boat company.

A resolution was also passed relating to 'incendiary publications.' It requests the governor to open a correspondence with the governors of those States in which such publications have been or may be issued, for the purpose of procuring their suppression, or at least of preventing their being sent into the slave-holding States. It further declares that the refusal of any State to make use of the means which it possesses, for the suppression of such publications, will be regarded by Alabama 'as evincive of a spirit hostile to that friendship and good understanding which should characterize sister States, and as inimical to her peace and safety.'

**CHOCTAWS** — In December, 1831, the Indian agent of the United States among the Choctaws, reported that about two thousand of the emigrants embarked on the 25th of November, in two steamboats, under the expectation of landing at Little Rock; but the water of the river was so low that they were compelled to debark at the port of Arkansas, one hundred and ten miles below Little Rock, whence they took up the line of march to Kiameche, the point of their

destination, and three hundred miles distant, under the superintendence of Cap. Brown, of the United States Army. They were supplied with wagons and all the necessary facilities for a comfortable journey.

Two other steamboats with upwards of one thousand emigrants, had chosen the route by Red river and the Washita. These were intended to be landed at Cote-Fabre on the Washita, about one hundred and sixty miles from Kiameche. Another party of about two hundred arrived at Vicksburg on the 8th inst., and were to embark on the 10th for the above destination.

On the first instant another party of emigrants of about five hundred in number, took passage in steamboats from Memphis, for White River. They are to locate in the vicinity of Fort Smith, on the Arkansas, about one hundred and twenty miles north of the principal settlement at Kiameche.

Of these emigrants, about two thousand are from the southeastern,—one thousand two hundred from the north-eastern,—and eight hundred from the Western districts of the nation.

About one thousand have been ticketed to remove themselves for the commutation of ten dollars each, offered by the Government, most of whom have crossed the Mississippi.

## MISSISSIPPI.

**LEGISLATION.** — at the Session, 1831 and 1832, the Legislature passed ninety-five acts; nine resolves; and five memorials. Among them was an act by which all free persons of color between the ages of sixteen and fifty, are required within ninety days after its passage to remove from the State, and not to return under penalty of being sold for five years.

Persons of good character may however obtain licenses to remain from the county or probate county. This, however, is revokable at pleasure, and the negro or mulatto must remove within twenty days thereafter.

Any person receiving or employing a colored person having no free papers, on board of a steam boat or river craft, is made liable to a fine of \$1000, and to be imprisoned from six to twelve months.

Persons licensed to sell spirituous liquors are required to take an oath not to sell the same to slaves without the permission of the owner.

No colored person shall exercise the

functions of a minister of the gospel under the penalty of thirtynine lashes. A master may permit his slave to preach upon his own plantation, but only to his own slaves.

Any person employing a colored person to hawk or vend goods without the limits of an incorporated town, shall be fined from \$50 to \$500, and imprisoned from one to three months.

Any free colored person so employed, shall forfeit the goods, and be whipped thirtynine lashes.

That part of the act relating to the Indian territory, which prohibited persons from making any settlement there, was repealed at this session.

An act was passed excusing females from attending court, to give testimony in civil cases, and providing for the taking of their depositions. Parties, however, may compel them to attend by filing an affidavit, that their personal attendance is necessary for purposes of justice.

An act declaring that the malicious killing or wounding any horse, mule,

sheep, &c., shall be punished by a fine not exceeding \$300, and by imprisonment of not more than six months. The malicious destruction of another's property, either real or personal, is to be punished by a fine of double the amount of the damage done, and imprisonment not exceeding twelve months.

An act authorizing the holder of covenants, bills, promissory notes, to sue all the parties thereto in one action, and authorizing the courts to consolidate such actions, where several suits are brought on one instrument.

An act regulating the appointment of overseers of roads, prescribing their duties, prohibiting horse racing and shooting on the same, and declaring that the public roads shall not be less than twenty-five feet wide, and the neighboring roads not less than fifteen feet wide. It also regulates the building of bridges and erection of gates, &c.

An act requiring rangers to give security.

Two turnpike road companies, one manufacturing company, two rail road companies three library associations, two masonic lodges, and three churches were incorporated.

Six resolutions were passed, (two-thirds of both houses concurring,) confirming the decrees of the Court of Chancery dissolving certain marriages.

A resolution was passed for the establishment of a Penitentiary.

A memorial to Congress was adopted praying for a grant of 1,000,000 acres of the public lands within the State for the improvement of its navigable streams.

An act was passed providing for the election of the representatives to the convention called for the revision of the State Constitution.

**CONSTITUTION.**—Pursuant to this act the representatives were elected, and on the 26th of October, 1832, the Convention adopted a revised constitution for the State, of which the following are the outlines.

The chief executive power is vested in a governor, chosen by the people for two years, but eligible only four years in each term of six years.

The Secretary of State, Treasurer and Auditor of Accounts, are all chosen for two years by the people. The legislative power is vested in a Senate and House of Representatives; the Representatives are chosen for two years, on the first Monday of November and the succeeding day, and their number is not to exceed 100 nor to be less than 36. The Senators are chosen for four years, one half being chosen biennially, and their number cannot be less than one-quarter nor more than one-third of the House of Representatives. The judicial power is vested in a high court of Errors and Appeals, held at least twice a year, consisting of three Judges, who are chosen by the electors for six years, one being chosen in each of the three districts into which the State is divided, and one of the three Judges being chosen by the people biennially; in a Circuit Court held in each county, at least, two in each year, the Judges being chosen by the electors of each district for four years; in a Superior Court of Chancery the Chancellor being chosen by the people for six years; in a Court of Probate the Judges being elected by the electors in the county for two years, and a board of Police for each county, consisting of five members elected for two years.

Justices of the Peace and Constables are also chosen for two years. No person can be appointed to any office in this State for life or during good behavior. Every free white male of the age of twentyone years or upwards, who shall be a citizen of the United States, and shall have resided in the State for one year preceding the election, and four months within the county or town where he offers to vote, shall be entitled to vote. The mode of electing is by ballot.

## LOUISIANA.

**LEGISLATION.**—The legislature met at New Orleans, agreeably to the proclamation of the governor, on Monday, the 14th Nov. 1831. The governor's message was read the same day. It explains the object of the extraordinary call, to be the passage of a law prohibiting the further introduction of slaves into the State: the appointment of a Senator to Congress to fill the vacancy caused by the resignation of Mr Livingston;

and the adoption of a remonstrance to be sent to Congress against a repeal on the duty on sugar.

The governor in his message observes, that 'conspiracies of slaves instigated most probably by imprudent propagandists and the false philanthropy of a certain class of persons styling themselves the friends of the blacks, have been plotted in several of the States of the Union.

These insurrections have, with much

reason, excited the serious attention of most of the States of the South. 'The total prohibition of slaves into this State, during a certain number of years, appears alone to me to be the only method of avoiding the danger with which we are threatened. All other means have been tried, and experience has proved their inutility.

In consequence of this message, a law was passed, which will be found in the Register for 1830—31, page 362.

Another act was passed, authorizing the governor to provide arms and accoutrements for volunteer companies.

On the 15th November, Mr Waggaman was chosen on the 3rd ballot to the United States Senate.

The vote stood: for Mr Waggaman 32; Mr Carleton 30.

At the third session of this legislature, held January 2d, 1832, there were passed seventyseven acts, and eight resolutions.

Among the acts, was an act amending the act relating to the introduction of slaves above mentioned. By this act no purchase of slaves made by an agent under that act is legal, unless he is a citizen of the State, and a freeholder of five years standing, and an elector of the parish into which the slaves are introduced. A son or son-in-law may be appointed an agent for the purchase of slaves under that act.

By the amendment Tennessee, Kentucky, and Missouri, are placed among the States from which slaves are not to be introduced.

Emigrants, however, settling in the State, may bring such of their slaves with them as they owned before the passage of this law.

When a plantation is on the dividing line of the State, the owner may have free egress and ingress for all the slaves owned by him before the passage of the act.

The burthen of proof is to be placed on the accused.

Citizens who become owners of slaves by inheritance, and those who are owners of slaves at this time, are permitted to import their slaves upon certain conditions, but they are not to be sold or hypothecated for five years.

Citizens of other States owning land in Louisiana, may introduce their slaves to work on their roads and levees, upon filing a list or affidavit of the purpose, and giving bond for removing them after the completion of the works.

The owners of runaway slaves may cause them to be brought back.

A resolution was also passed, requesting the executive to ask the executive of Mississippi, to recommend a law extending the time fixed for the sale of runaway regrees to twelve months after their first desertion.

A resolution requesting the government of the United States, to obtain from the government of Mexico, permission for the inhabitants of Louisiana, to re-take their runaway slaves within its territory.

An act prohibiting the sale of spirituous liquors to slaves without the consent of their masters.

An act authorizing divorces, where a married person accused of any infamous offence, shall have fled from the State, upon proving that the fugitive has actually been guilty of such offence, and has fled from the State.

An act requiring steam boats running in the night, to hoist lights under the penalty of \$500.

An act was passed, providing for the establishment of a Penitentiary at Baton Rouge.

The state treasurer was authorized to sell annual licenses for \$7,500 each to the keepers of gaming houses in New Orleans, and the proceeds, together with \$8000 for theatre licenses, are to be appropriated to the Orphan Boy's Asylum, and to the Podross Asylum.

The proceeds of certain other licenses, authorized by the act, are to be appropriated three-fourths to the charity hospital, and the residue to the primary schools at New Orleans and the college of Louisiana.

An act was passed to remove an insane person, who was charged with murder, from prison to the charity hospital for his recovery, in which event he is to be remanded and tried.

A civil engineer was authorized, with a salary of \$5000, to superintend all state works of internal improvement.

One causeway company, and two canal and navigation companies were incorporated. Four ferries were granted to individuals.

An exclusive patent for fourteen years of a machine for cutting sugar canes, was granted to J. B. Fitch.

A steam cotton press company, and an insurance company were incorporated.

Also, a bank called the Union Bank of Louisiana, with a capital of \$7,000,000, to be raised by a loan. A subscription of \$8,000,000 is to be made to secure the loan by resident owners of real estate, and the shares are to be transferable after four years, and then only



to resident freeholders: and the faith of the State is pledged for the security of the capital and interest; and bonds to the amount of the capital bearing five per cent interest, are to be issued by the governor for that purpose, and the stockholders are to mortgage their lands and slaves for the ultimate payment of the bonds.

The State is to be entitled to a credit of \$500,000, and every stockholder to a credit equal to one half the amount of his stock.

A resolution was passed in favor of the renewal of the charter of the United States Bank.

## TENNESSEE.

**LEGISLATION.** — The legislature of this State commenced its biennial session on the 19th September, 1831. The message of governor Carroll is confined entirely to matters of State policy, if we except the recommendation of the establishment of the general ticket mode of electing electors of president and vice president of the United States. — This course is recommended, in order that the State of Tennessee may have its 'full weight in the elections for president and vice president *hereafter*.'

The legislature adjourned on the 21st December, after a session of ninety-four days, in which were enacted one hundred and six laws of a public and general character, and two hundred and eighty-seven of a private and local nature.

**UNITED STATES BANK.** — The House of Representatives passed resolutions directing the delegation of the State in Congress to resist the rechartering of the United States Bank; the proposition was rejected in the Senate, by an equal division, 10 yeas, and 10 nays.

Among the acts of general interest, was an act prohibiting free persons of color from removing into the State to reside there, under a penalty of \$50, and imprisonment in the Penitentiary from one to two years, and if he neglect to depart for thirty days after his discharge, a further imprisonment of four years.

No owner is to be permitted to emancipate his slaves, except upon condition of immediate removal, and the owner is to give bonds to that effect.

An act was also passed, prohibiting all assemblages of slaves in unusual numbers or at suspicious times and places.

Slaves are not to be permitted to go about the country under the pretext of practising medicine or healing the sick. Any instigators of plots to rebel, who shall run away or refuse to surrender, may be killed.

The punishment of the pillory and cutting off ears is abolished.

Where a runaway slave is supposed to belong to another county or State, publication is ordered in a newspaper best calculated to inform the owner.

If a jury of slaveholders cannot be obtained for the trial of a slave, a jury of householders may be summoned.

The burthen of proof in cases where slaves are introduced into the State, contrary to law, is imposed on the defendant.

An act authorizing the lands set apart for common schools to be leased, and for keeping of common schools, in middle Tennessee.

An act restricting the power of Courts to punish for contempt to cases of misbehavior in the presence of the court, or so near thereto as to obstruct the administration of justice, and to the wilful misbehavior of the officers in their official transactions, or resistance to any process or order of the courts.

An act providing that no costs shall be chargeable against a female suing for a divorce, when a divorce shall be decreed, but she must give a bond, with security, to pay the costs in case of failing in the suit.

An act empowering the Chancery, Circuit and County Courts, to authorize executors to sell real estate, in order to pay debts of the deceased, where the personal estate proves insufficient.

An act authorizing letters testamentary or of administration, to be taken out on the estates of persons residing out of the State at the time of their death, provided the deceased owned real estate in the State. This, however, is not to extend to persons dying twenty years before application for letters, &c.

An act to compel guardians to deliver up the estates of minors, or to give new security, where either of the securities should die, remove from the State, or become insolvent.

An act declaring that guardians are not to be charged compound interest, in settlement with their wards, where they

can show that they could not have received compound interest on debts due to the estate.

An act abolishing imprisonment for debt, except in cases of fraud. No female is to be imprisoned in any civil action. In all actions for debt or on contract, the original process is to be by summons, unless an affidavit of the debt, and that the defendant has removed or is about to remove his property beyond the jurisdiction of the Court, in which cases the defendant may be compelled to give bail, unless he can prove that the affidavit is untrue. Nor can the defendant be imprisoned on a judgment in a civil action, unless upon a similar affidavit, or an affidavit stating that the defendant, has fraudulently conveyed his property to others, or conceals it to avoid the payment of his debts, and he may also be discharged upon disproving the facts alleged in the affidavit.

Six acts were passed, constituting boards of internal improvement in certain counties, and providing a remedy where the owners of bridges and turnpikes neglect to keep them in repair.

A resolution was passed deprecating the action of the federal government in appropriating money for local objects of internal improvement.

An act authorizing a deduction from the salary of a Circuit Judge for not attending term of \$10 per day for the first three days, and \$100 for absence for the whole term.

An act of common provisions in relation to the Judges of the Supreme Court.

An act authorizing the Court of Chancery to order a jury to be forthwith empaneled for the trial of any fact, unless either party upon affidavit, show good cause for a continuance.

An act giving jurisdiction to Justices of the Peace in all cases of endorsements

of bills, promissory notes, bonds to the amount of \$100.

An act imposing a tax on retailers of spirituous liquors, and appropriating the proceeds to the use of common schools.

An act declaring all persons guilty of opening graves and carrying away bodies, liable to imprisonment in the penitentiary of from two to five years.

An act providing for the empanneling the juries to determine the term for which prisoners pleading guilty shall be confined.

An act providing for the registering of deeds, bills of sale of personal property, mortgages, powers of attorney, &c. — They are to take effect only from the time of being registered. The instrument first registered is to be preferred unless the holder had notice of the prior instrument. Conveyances of land made out of the State are to be proven before a notary public, and where witnesses to a deed are dead or out of the State, the hand writing of the person executing it may be proven by two witnesses.

An act imposing a fine of \$25 on any sheriff or other officer holding an election for opening and reading the ballot when handed to him to be deposited, and declaring that such sheriff, &c, shall be removed from office.

A bank of \$2,000,000 was incorporated.

An act providing for taking a census of all free male inhabitants over 21.

A resolution was passed to take the opinions of the electors in relation to calling a Convention for amending the State Constitution.

A resolution requesting an amendment of the laws of Louisiana for the inspection of tobacco.

A resolution recommending the setting apart the net proceeds of the public lands for the education of American children, and the distributing them among the States and Territories.

## KENTUCKY.

**FINANCES.** By a report of the Treasurer of the State, it appears that the total receipts for the year ending on the 10th of October, 1831, were \$215,435 50.

Net profits of the Bank of the Commonwealth,	\$43,941 65
Distribution of Stock from the Bank of Kentucky, in Commonwealth's paper,	29,835 00
Distribution of Stock from the same for specie,	29,835 00

Sheriffs for revenue,	\$62,351 44
For lands and land warrants,	37,741 70
For taxes,	11,483 76
Other sources,	246 95

Total,	\$215,435 50
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### *Expenditures.*

On Criminal Prosecutions, and for other legal charges including salaries of attorneys, clerks, jailors, &c.	\$34,243 17
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Lunatics, and lunatic asylums,	\$18,696 65
Institution for the deaf and dumb,	3,198 85
Payments to judicial and executive officers,	29,633 86
Legislature, session of December, 1830,	12,760 75
Internal improvement, bridges and roads,	48,737 02
For slaves executed,	3,187 00
Other expenses,	33,415 72
<b>Total,</b>	<b>\$183,873 02</b>

The debt of the State is \$18,035 41

LEGISLATION. — At the legislative Session, commencing November 7, 1831, 196 acts and 5 resolutions were passed. The acts were mostly private.

A bill to prohibit the importation of slaves as merchandize passed the House, but was not acted on by the Senate. The ratio of representation in the State Legislature, was fixed, for a Senator 2510, for a Representative 954 voters.

Mr Clay was elected to the Senate of the United States by the following vote :

In the Senate — for Henry Clay, 18; R. M. Johnson, 19; Warden Pope, 1. In the House of Delegates—Henry Clay, 55; R. M. Johnson, 45.

Among the acts of general interest were; An Act authorizing the Courts to compel the husband to make an allowance for his wife's maintenance for one year, during the pendency of a suit for alimony. The Chancellor is directed to try the facts in suits for alimony instead of sending the cause to a jury.

Six acts of divorce were passed.

Several acts were passed in relation to idiots and lunatics, and prescribing the mode of proceeding in writs de idiota inquirenda.

An act prohibiting the selling of lottery tickets under a penalty of from \$50 to \$10,000.

An act prohibiting any person at ferries from transporting slaves across the Ohio except in the presence of their owners.

An act limiting militia parades to one muster, when the commanders are 'to take the strength of their respective companies.' The militia are not required to have arms except when provided by the government.

An act requiring tavern keepers and pedlers of clocks, &c. to take out a license, for which \$10 is to be paid. A penalty of \$50 is exacted for acting as tavern keeper without a license, and \$10 upon the pedlers, and all contracts for the sale of clocks without a license declared void.

An act altering the date inserted in the oaths against duelling to November 7, 1831.

An act providing for a digest of the decisions of the State Courts.

An act providing that the places of such electors for President of the U. S. as do not attend to vote shall be filled by the legislature.

Two rail-roads were authorized by private incorporations, six turnpike companies, three fire companies, one insurance company, three academies, one manufacturing company, and two bridge companies were incorporated.

## OHIO.

GENERAL REVENUE — For year ending Nov. 15, 1831.

*Receipts.*

Balance in Treasury Nov. 15, 1830,	\$6,280 44
State & Canal Tax in 1831,	216,835 09
County & township taxes do	9,696 96
Tax on lawyers, physicians, &c.	2,996 12
Tax on Banks,	3,914 18
Redemption of lands sold for tax	304 03
Tax on insurance companies,	771 56
Jas. Hampson and others, security of W. Craig,	600 00
Other sources,	867 81
<b>Total receipts,</b>	<b>\$242,266 19</b>

*Expenditures.*

Audited Bills redeemed,	\$108,541 22
Repair of National Road,	2,000 00
Canal Fund,	115,166 48
Deaf and Dumb Asylum at Columbus,	2,202 68
Interest on School Funds &c,	8,280 44
Balance remaining in Treasury,	6,075 38
	<b>\$242,266 29</b>

The expenditures of 1831, for which audited bills were issued, were as follows :

General Assembly,	\$35,650
Executive and Judicial,	17,597
Ohio Penitentiary,	13,985
State Printer,	8,586



County and t'p. taxes refunded,	8,943
Paper for the use of the State,	5,433
Wolf scalps,	3,543
Distributing public arms,	619
Adjutants, Qr. M. Gens. and	
Brigade Inspectors,	1,992
Refunding taxes improperly paid,	1,608
Contingent Funds of Governor,	
Auditor; &c,	4,649
Distributing Laws, and Journals,	385
County Treasurers' mileage,	1,007
Expenses attending sales of Can-	
nal lands,	1,129
Refunding deposits for redemp-	
tion of lands,	273
New entries at Land offices,	488
Librarian's salary,	300
Officers and witnesses at Courts	
Martial,	131
Interest on College funds,	59
Increase of Library,	50
Reporter of Supreme Court,	300
Carpet for the Senate Chamber,	290
Notes and index for revised code,	204
Binding do (in part)	1,000
Clerk and physician to the Pen-	
itentiary, (additional)	100
Sheriffs attending Court in Bank,	171
Clerk to committee of Revision,	210
Contingent expenses of General	
Assembly	986
Sundry small appropriations,	637

Total, 111,128

The tax levied for 1831, for State and Canal purposes, is the same as for 1830; and it is estimated that there will be paid into the Treasury, from the 15th of November last, to the 1st of March, ensuing, the additional sum of about \$220,000, which will be amply sufficient to defray all the expenses of the Government for the ensuing year.

The amount of the foreign debt contracted on account of the Canals, is, \$4,400,000.

The interest payable annually on that sum, to foreign stockholders, is \$260,000.

The amount borrowed from the different School Funds, and transferred to the Canal Fund, up to the 15th November, 1831. is \$257,128.

The annual interest on the last named amount, is \$15,428, payable to our own citizens for the support of schools. Making the whole Canal debt of the State \$4,657,128; and the annual interest payable thereon \$275,428.

The amount received into the Treasury from the sale of lands granted by Congress to the State of Ohio, for Canal purposes, during the year ending the 15th November last, was \$55,009.

The Sinking Fund for 1831 amounts to \$40,000; leaving a balance, after the payment of interest and the Sinking Fund of upwards of \$116,830.

CANALS. — The amount of tolls collected on the several canals for the year ending on the 1st November, 1831, was as follows:

On the Miami	\$36,178
“ Ohio	63,934
Making in all	100,112

which, after deducting the expenses of collection, leaves \$94,619 net profit to the State.

The navigation of the Erio and Ohio Canal was opened in 1831, as far south as Chillicothe, a distance of 250 miles. This, with the Miami canal, and the navigable feeders connected with the main line, make an amount of *finished canal*, now navigable, of about 344 miles. It is stated by the Acting Commissioners that the portion of the Ohio Canal between Chillicothe and Portsmouth, a distance of 50 miles, together with the Granville feeder, 6 miles, already in a very advanced state, will be completed in July, when Ohio will have, of navigable canals 400 miles; and which require to complete them a further expenditure of \$320,504.

LEGISLATION. — At the legislative session commenced December 6th, 1831, were passed twenty public acts. Among them were an act providing for taking a census of the white male inhabitants of the State over the age of twentyone years.

An act authorizing the sale of the lands granted by Congress to aid the State in constructing and extending the Miami canal.

An act requiring the state auditor to apportion annually among the several counties for repairing and making roads and bridges, the amount of the 3 per cent fund, granted by the United States from the proceeds of the public lands for that purpose.

An act regulating the inspection of fish.

An act for perpetuating testimony relating to lands. County surveyors are authorized to take depositions of witnesses for the establishment of surveyed corners of lands.

An act relating to nuisances by which owners, &c, of slaughter houses are rendered liable to a penalty of from \$5 to \$50 for permitting them to remain unclean any time between the 1st of April and the 1st of October. Owners of soap, candle, oil, glue, and varnish factories are made liable to a fine of from \$10 to

\$40 for allowing them to remain unclean to a greater extent than is necessary in the prosecution of their business. Persons are prohibited from putting dead animals in water courses, roads, fields, &c. The penalties to be paid into the town treasury.

An act providing for the erection of a new penitentiary, near Columbus or Franklinton. Besides these, numerous private acts were passed, and among them acts by which 27 churches were incorporated, 17 state roads, 15 divorces authorized, 12 rail road companies, 10 turnpike companies, 12 bridge companies, 10 libraries incorporated, 10 towns incorporated, 5 academies incorporated, and 16 acts of incorporation for manufacturing, scientific and other purposes.

**GREAT FLOOD.** — Upon the breaking up of the ice in the Ohio about the middle of February, 1832, the river rose to an unparalleled height.

The following accounts are from divers Western papers. A Pittsburgh newspaper of February 14th, says :

‘On Friday last Pittsburgh, Alleghany town, and the lowlands bordering the rivers, were visited by the horrors and devastations of the greatest flood that ever occurred since the erection of Fort Du Quesne by the French. It would be in vain to give the particulars of the loss sustained by our fellow citizens — to describe the perilous escapes from the raging element — or the alarm that pervaded the city at the prospect of a general inundation.

‘On Thursday evening last in consequence of the immense rains that had fallen and the rapid thaw, the river rose to an unusual height — many houses adjacent to the rivers became untenable. During the night, many families were awakened by the flood pouring into their dwellings, and many effected their escape at the risk of their lives. The shrieks and cries of the women and children could be heard throughout the night. On Friday the rivers arose with astonishing rapidity — and deluged parts of the city with such celerity that the inmates of dwellings were obliged to fly for personal safety without stopping to save their moveables.

‘The river arose about thirtyone feet above low water mark — of course this flood exceeded the memorable ‘Pumpkin flood’ of November 10, 1810, by about two or three feet. The first flat of Alleghany town was completely inundated. In this city the following ground was submerged, viz : the whole ‘Point’

to Union street — and generally north of Liberty. The water ascended Wood street to the middle of Second — the corner of Diamond and Jail alleys, and the corner of Market and Liberty street.’

The Cincinnati Daily Advertiser states, that on the 10th of February, the Ohio had risen within five feet of extreme high water. It continued rising, sometimes an inch, and at others half an inch per hour, until the night of Friday, the 17th inst. when it came to a stand, and on Saturday morning at seven o’clock, began to recede, from which time, up to Tuesday at seven o’clock, 72 hours, it has fallen but little more than three feet. It afterwards fell faster, and on Wednesday morning it had left Maine street, with the exception of the intersection of Second street ; and the warehouses and stores on Front, from Walnut to the Old Miami Bank, were re-opened and occupied by their proprietors.

On the 15th, 16th and 17th, before the water had reached its height, many frame dwellings, probably not less than fifty, (many estimate a much larger number,) and other buildings, below Elm street, upset, and not a few of them floated away. From Mill Creek to Deer Creek, a distance of nearly two miles, and from the river up to Lower Market and Pearl streets, was one continued sheet of water, excepting only where the walls of the buildings hid it from the sight, varying in depth from one foot to five and twenty feet and upwards, which from Tuesday the 14th to Tuesday the 21st, was covered with boats, arks and rafts of every description, from the huge flat boat of 1000 barrels burden, down to the light Indian bark canoe with its single navigator, with his single paddle, wending his way along the streets to note the progress of the flood.

When the site of Fort Washington, which stood where the Bazaar now stands, was fixed, the Indians were called upon to show high water mark, and they pointed out a tree which grew on the bank, near, or on the spot where the pump now is, in Lower Market street, as one to which tradition informed them their ancestors had tied their canoes. There has been much cutting down of the bank and filling up of the ravine since that period, notwithstanding which, the water flowed within six feet of the designated spot, and two or three inches more rise would have brought it to the place.

A gentleman of unquestionable veracity informs us, that in one hundred miles distance, above the mouth of the Cum-

berland, he counted *sixtynine houses afloat on the Ohio in a single day, between sunrise and sunset*. Lawrenceburg, only about twenty miles below us, we are informed, was so completely inundated that not a family was left in the place, all having fled to the high ground in the neighborhood, and in that distressed situation, compelled to 'abide the pelting of the pitiless storm,' and endure the severe cold which followed it.

We learn from good authority, that the late rise exceeded that of 1793 by three feet six inches, and that of 1813 by five feet ten inches.

LEGISLATION. — At the second session of the legislature in June, 1832,

## INDIANA.

ELECTIONS. — Congressional, September, 1831.

First district. Ratcliff Boon, 11,281; John Law, 10,905. — Second district. John Carr, 4,855; William W. Wick, 4,610; James B. Ray, 1,732; Jonathan Jennings, 1,681; John H. Thompson, 1,486; Isaac Howk, 454. — Third district. Jonathan McCarty, 6,243; Oliver H. Smith, 5,289; John Test, 3,107.

SENATOR. — December, 1831. Gen. John Tipton was elected a Senator of the United States, in place of Mr Noble, deceased, on the 7th ballot. For Gen. Tipton 55, Jesse L. Holman 36, several others 14.

FINANCES. — *Estimated receipts for 1832.*

Cash in the Treasury Jan. 1,	
1832,	\$74,392
From taxes,	40,000
“ Outstanding claims,	3,000
	<hr/>
	\$117,392

### *Expenditures.*

Expenses of legislature,	\$17,200
“ Public printing,	4,100
“ Executive,	2,400

four public acts only were passed, acts apportioning the representation in the General Assembly and dividing the State into Congressional districts.

An act was passed for the preservation of the Cumberland road; authorizing toll gates to be placed every ten miles; prescribing the rate of toll, which is to be paid into the treasury; authorizing the Governor to borrow money to repair the road, and exempting from toll, mail coaches, troops, arms and stores of the United States, or of any State, children passing to or from school, persons going to or from public worship, funerals or musters.

Expenses of Judiciary,	8,200
“ Miscellaneous,	8,100
	<hr/>
	\$40,000
Public debt,	40,212

INTERNAL IMPROVEMENT. — An act was passed at the legislative session of 1832 to sell and apply the proceeds of the lands granted by Congress to the State to construct a canal between Lake Erie and the Wabash. Commissioners were appointed to borrow money on the credit of the State and to commence the work.

Eight joint stock companies with an aggregate capital of \$4,000,000 were incorporated to construct rail roads from the Ohio to Indianapolis and to different places on the Wabash.

An act was also passed confirming an act of the legislature of Kentucky, incorporating a company with a capital of \$500,000, to build a bridge across the Ohio at Louisville.

Strict provisions are made for securing the navigation of the Ohio for boats of all descriptions.

## ILLINOIS.

INDIAN WAR. — In the former part of this volume, page 10, a succinct account will be found of the origin of the hostilities which disturbed this State during the year 1832.

In the month of March, Black Hawk, at the head of a band of Sacs and Foxes, crossed the Mississippi, over which he had been removed in 1831 and joining the Winnebagoes under the prophet, in all about 1000 strong, commenced an

indiscriminate attack upon the frontier settlers. Fifteen persons, men, women and children, were surprised and murdered at a settlement on Indian Creek (a tributary of Fox river) on the 20th April. Two young women were suffered to live, but were carried off into Indian captivity. A small party of seven or eight men, led by Mr St Vrain, the agent for the Sacs and Foxes, in endeavoring to make their way to the Head Quarters of the



army, were suddenly attacked by a much superior number of Indians. Two of the party were killed.

The militia were at once called upon to defend the settlers, and on the 14th of May a detachment of two hundred and seventy-five mounted volunteers, under the command of major Stillman, were attacked and overpowered on Sycamore creek, about thirty miles from Dixon's ferry. The party met a small party of Indians, two of whom they killed, and took two prisoners, and, in pursuing the remainder, were led into an ambuscade; the detachment being fired upon by a large body of Indians, were forced to fly, and with difficulty effected their retreat, with the loss of about thirteen killed and as many wounded. The governor of Illinois then called out two thousand militia, to meet at Hinepin, on the Illinois river, on the 10th June, to be headed by himself.

General Atkinson, with the United States troops in that quarter, immediately proceeded to the scene of hostilities. And General Scott, with a number of troops from the sea board, was ordered to take upon himself the direction of the war.

The cholera attacked these troops on their route, and prevented their taking part in the campaign. Those under command of General Atkinson, and the militia who were free from disease, marched in pursuit of the savages, and on the evening of the 21st of July, General Henry, with his Brigade, accompanied by General Dodge, and a battalion of Michigan volunteers, which had been detached by General Atkinson, in pursuit of the Sacs and Foxes, under Black Hawk, succeeded in coming up with him, on the bank of the Wisconsin, and immediately made an attack upon the Indians, which resulted in their defeat, with a loss of sixty-eight men killed, on the part of the enemy. The loss of the Americans was trifling—amounting to one man killed, and eight wounded. Night coming on, and the troops being exceedingly fatigued, having marched forty miles that day, no pursuit could be attempted. Black Hawk passed over to an island in the Wisconsin, to which place he had sent his women. Generals Henry and Dodge remained on the ground the succeeding day and night, and part of the next day, being unable to renew the attack, in consequence of the entire absence of boats and canoes, or the means

of constructing rafts to cross to the island. Generals Henry and Dodge marched to the Blue Mounds, on the evening of the 23d, for a supply of provisions, where they were joined by General Atkinson, with the regular troops and part of Alexander's brigade. After being supplied with provisions, the pursuit was renewed, and on the 2d of August, the savages were overtaken on the banks of the Mississippi, and entirely dispersed, with the loss of one hundred and fifty killed. The friendly Indians were sent in pursuit, and on the 27th of August, they succeeded in capturing and delivering Black Hawk, and the Prophet, into the hands of the American General. After their capture, treaty was made with the Sacs and Foxes on the 21st of September.

By this compact, the United States acquire about 6,000,000 acres, of a quality not inferior to any between the same parallels of latitude. It is known to abound in led ore, and the Indians say in other ores.

For the tracts ceded, the United States agree to pay an annuity of twenty thousand dollars for thirty years, to support a black-smith and gun-smith in addition to those now employed, to pay the debts of the tribes, to supply provisions, and as a reward for the fidelity of Ke-o-kuk and the friendly band, to allow a reservation to be made for them of four hundred miles square on the Iowa river, to include Ke-o-kuk's principal village.

Black Hawk and his two sons, the Prophet, Napope and five others, principal warriors of the hostile bands, are to be retained as hostages, during the pleasure of the President. All the other prisoners were delivered up to the friendly Sacs and Foxes.

A treaty was also concluded with the Winnebagoes, for an exchange of lands, and the removal of that part of the tribe which resided south of the Wisconsin, and east of the Mississippi. The tract ceded by this tribe contains about 4,600,000 acres, and is represented to be of excellent soil, well watered, and abounding in inducements for agriculturists to purchase and cultivate.

Black Hawk and his fellow prisoners were brought to Washington, and after having been carried through some of the larger cities, to give them a proper conception of the power of the United States, they were dismissed and sent back to their tribes.

## MISSOURI.

**FATAL DUEL**—From the Missouri Republican of Aug. 30, 1831.—The personal controversy which was carried on for some time previous to the election, in the other papers in this city, between Major Biddle and Mr Spencer Pettis, has had a most melancholy termination. A challenge passed from Mr Pettis to Major Biddle on Thursday last: it was accepted, and the gentlemen met on the sand bar opposite this city on Friday afternoon. Major Biddle being near-sighted, he, as the challenged party, stipulated *five feet* as the distance at which they were to fight. On the first fire, both gentlemen were mortally wounded. Major Biddle was shot through the abdomen, the ball lodging within. Mr Pettis was shot through the side, just below the chest, the ball passing entirely through the body. Mr Pettis survived until Saturday afternoon. Major Biddle died yesterday morning. Both parties are said to have conducted with remarkable coolness upon the occasion; and supposing the wounds to be mortal, they exchanged forgiveness upon the ground.

[Maj. Biddle was a pay master in the

army, and brother to Mr Biddle, president of the bank of the United States, and Com. Biddle, of the navy. Mr Pettis was the member-elect to Congress from Missouri. The parties had long been in a state of bitter contention, and not long since, Major Biddle inflicted a severe personal chastisement on Mr Pettis, for which the latter was tendered 'satisfaction.' Major Biddle was a married man, but had no children — Mr Pettis was unmarried. Both seemed to believe that the duel would have the fatal termination that ensued.]

**ELECTION.** — August, 1832. — For Governor, except Crawford County: Daniel Dunklin 9,121; Bull 8035; scattering 700. Congress — Ashley 9498; Wells 8836; scattering 273.

By the auditors' report of December 15, 1832, it appears that the value of lands and town lots as assessed for taxation in 1832, was \$7,424,279, of which the city and county of St Louis held \$2,716,664. The value of personal property liable to taxation, including slaves, \$8,363,480. The revenue of the State from taxes and licenses for 1832, was \$62,313.

# APPENDIX.

## EXECUTIVE OFFICERS

OF THE

UNITED STATES OF AMERICA.

	<i>Nativity.</i>	<i>Salary.</i>
Andrew Jackson, President,	S. C.	\$25,000
John C. Calhoun, Vice President,	S. C.	5,000
Edward Livingston, Secretary of State,	N. Y.	6,000
Louis McLane, Secretary of the Treasury,	Del.	6,000
Lewis Cass, Secretary of War,	N. H.	6,000
Levi Woodbury, Secretary of the Navy,	N. H.	6,000
Roger B. Taney, Attorney General,	Md.	3,500
William T. Barry, Post Master General,	Ken.	6,000

## JUDICIARY.

John Marshall, Ch'f Justice, Va.	\$5,000	Smith Thompson, Ass. Just.	N. Y.	\$4,500
William Johnson, Ass. Just.	S. C. 4,500	John McLean,	"	Ohio, 4,500
Gabriel Duvall,	" Md. 4,500	Henry Baldwin,	"	Penn. 4,500
Joseph Story,	" Mass. 4,500	William T. Carroll, Clerk,		Fees, &c.

## DIPLOMATIC CORPS.

TO GREAT BRITAIN AND IRELAND.

	<i>Nativity.</i>	<i>Salary.</i>
Martin Van Buren, Envoy, &c.	N. Y.	\$9,000
Aaron Vail, Secretary,	N. Y.	2,000
	FRANCE.	
William C. Rives, Envoy,	Va.	9,000
Nathaniel Miles, Secretary,	Vt.	2,000
	RUSSIA.	
James Buchanan, Envoy,	Penn.	9,000
J. Randolph Clay, Secretary,	Va.	2,000
	SPAIN.	
Cornelius P. Van Ness, Envoy,	Vt.	9,000
Charles S. Walsh, Secretary,	Md.	2,000



NETHERLANDS.			
Auguste Davezac, Chargé, &c.	La.	4,500	
BELGIUM.			
Hugh S. Legaré, Chargé, &c.	S. C.	4,500	
DENMARK..			
Henry Wheaton, Chargé, &c.	R. I.	4,500	
SWEDEN AND NORWAY.			
Christopher Hughes, Chargé, &c.	Md.	4,500	
PORTUGAL.			
Thomas L. L. Brent, Chargé, &c.	Md.	4,500	
NAPLES.			
J. Nelson, Chargé, &c.	Md.	4,500	
TURKEY.			
David Porter, Chargé, &c.	Mass.	4,500	
COLOMBIA.			
Thomas P. Moore, Envoy, &c.	Ken.	9,000	
J. C. Pickett, Secretary,	Ken.	2,000	
MEXICO..			
Anthony Butler, Chargé, &c.		4,500	
BRAZIL.			
Ethan A. Brown, Chargé, &c.	Ohio.	4,500	
BUENOS AYRES..			
Francis Baylies, Chargé, &c.	Mass.	4,500	
PERU.			
Samuel Larned, Chargé, &c.	R. I..	4,500	
CHILI.			
John Hamm, Chargé, &c.	Ohio,	4,500	

## TWENTYSECOND CONGRESS. — FIRST SESSION.

### SENATE.

*President of the Senate, pro tempore, SAMUEL SMITH, of Maryland.*

<i>Maine</i> — John Holmes, Peleg Sprague.	<i>North Carolina</i> — Bedford Brown, Willie P. Mangum.
<i>New Hampshire</i> — Samuel Bell, Isaac Hill.	<i>South Carolina</i> — Robt. Y. Hayne, Stephen D. Miller.
<i>Massachusetts</i> — Daniel Webster, Nathaniel Silsbee.	<i>Georgia</i> — George M. Troup, John Forsyth.
<i>Rhode Island</i> — Nehemiah R. Knight, Asher Robbins.	<i>Kentucky</i> — George M. Bibb, Henry Clay.
<i>Connecticut</i> — Samuel A. Foot, Gideon Tomlinson.	<i>Tennessee</i> — Felix Grundy, Hugh L. White.
<i>Vermont</i> — Horatio Seymour, Samuel Prentiss.	<i>Ohio</i> — Benjamin Ruggles, Thomas Ewing.
<i>New York</i> — Charles E. Dudley, William Marcy.	<i>Louisiana</i> — Josiah S. Johnston, Geo. A. Waggaman.
<i>New Jersey</i> — Mahlon Dickerson, Theo. Frelinghuysen.	<i>Indiana</i> — Wm. Hendricks, Robert Hanna.
<i>Pennsylvania</i> — Isaac D. Barnard, Willam Wilkins.	<i>Mississippi</i> — Powhatan Ellis, George Poindexter.
<i>Delaware</i> — John M. Clayton, Arnold Naudain.	<i>Illinois</i> — Elias K. Kane, John M. Robinson.
<i>Maryland</i> — E. F. Chambers, Samuel Smith.	<i>Alabama</i> — William R. King, Gabriel Moore.
<i>Virginia</i> — Littleton W. Tazewell, John Tyler.	<i>Missouri</i> — Thomas H. Benton, Alexander Buckner.

## HOUSE OF REPRESENTATIVES.

*Speaker, ANDREW STEVENSON, Virginia.**Maine.*

John Anderson,  
James Bates,  
George Evans,  
Cornelius Holland,  
Leonard Jarvis,  
Edward Kavanagh,  
Rufus McIntyre.

*New Hampshire.*

John Brodhead,  
Thomas Chandler,  
Joseph Hammons,  
Henry Hubbard,  
Joseph M. Harper,  
John W. Weeks.

*Massachusetts.*

John Q. Adams,  
Nathan Appleton,  
Isaac G. Bates,  
George N. Briggs,  
Rufus Choate,  
Henry A. S. Dearborn,  
John Davis,

Edward Everett,  
George Grennell, jr.  
James L. Hodges,  
Joseph G. Kendall,  
John Reed,  
(One vacancy.)

*Rhode Island.*

Tristram Burges,  
Dutee J. Pearce.

*Connecticut.*

Noyes Barber,  
William W. Ellsworth,  
Jabez W. Huntington,  
Ralph I. Ingersoll,  
William L. Storrs,  
Ebenezer Young.

*Vermont.*

William Cahoon,  
Horace Everett,  
Jonathan Hunt,  
William Slade,  
(One vacancy.)

*New York.*

William G. Angell,  
Gideon H. Barstow,  
Joseph Bouck,  
William Babcock,  
John T. Bergen,  
John C. Broadhead,  
Samuel Beardsley,  
John A. Collier,  
Bates Cook,  
C. C. Cambreleng,  
John Dickson,  
Charles Dayan,

Ulysses F. Doubleday,  
William Hogan,  
Michael Hoffman,  
Freeborn C. Jewett,  
John King,  
Garret Y. Lansing,  
James Lent,  
Job Pierson,  
Nathaniel Pitcher,  
Edmund H. Pendleton,  
Edward C. Reed,  
Erastus Root,  
Nathan Soule,  
John W. Taylor,  
Phineas L. Tracy,  
Gulian C. Verplanck,  
Frederick Whittlesey,  
Samuel J. Wilkin,  
Grattan H. Wheeler,  
Campbell P. White,  
Aaron Ward,  
Daniel Wardwell.

*New Jersey.*

Lewis Condict,  
Silas Condict,  
Richard M. Cooper,  
Thomas H. Hughes,  
James F. Randolph,  
Isaac Southard.

*Pennsylvania.*

Robert Allison,  
John Banks,  
George Burd,  
John C. Bucher,  
Thomas H. Crawford,  
Richard Coulter,  
Harmar Denny,  
Lewis Dewart,  
Joshua Evans,  
James Ford,  
John Gilmore,  
William Heister,  
Henry Horn,  
Peter Ihrie, jr.  
Adam King,  
Henry King,  
Joel K. Mann,  
Robert McCoy,  
Henry A. Muhlenburg,  
T. M. McKennan,  
David Potts, jr.  
Andrew Stewart,  
Samuel A. Smith,  
Philander Stephens,  
Joel B. Sutherland,  
John G. Watmough,  
*Delaware.*  
John J. Milligan,

*Maryland.*

Benjamin C. Howard,  
Daniel Jenifer,  
John L. Kerr,  
George E. Mitchell,  
Benedict I. Semmes,  
John S. Spence,  
Francis Thomas,  
George C. Washington,  
J. T. H. Worthington.

*Virginia.*

Mark Alexander,  
Robert Allen,  
John S. Barbour,  
Thomas T. Bouldin,  
Nathaniel H. Claiborne,  
Robert Craig,  
Joseph W. Chinn,  
Richard Coke, jr.  
Thomas Davenport,  
Philip Doddridge,  
William F. Gordon,  
William S. Archer,  
William Armstrong,  
Peter Johnston,  
John Y. Mason,  
Lewis Maxwell,  
Charles F. Mercer,  
William McCoy,  
Thomas Newton,  
John M. Patton,  
John J. Roane,  
Andrew Stevenson.

*North Carolina.*

Daniel L. Barringer,  
Lauchlin Bethune,  
John Branch,  
Samuel P. Carson,  
Henry W. Connor,  
Thomas H. Hall,  
M. T. Hawkins,  
James J. McKay,  
Abraham Rencher,  
William B. Shepard,  
Augustus H. Shepperd,  
Jesse Speight,  
Lewis Williams.

*South Carolina.*

Robert W. Barnwell,  
James Blair,  
Warren R. Davis,  
William Drayton,  
John M. Felder,  
J. R. Griffin,  
Thomas R. Mitchell,  
George McDuffie,  
William T. Nuckolls,

*Georgia.*  
 Thomas F. Foster,  
 Henry G. Lamar,  
 Daniel Newman,  
 Wiley Thompson,  
 Richard H. Wilde,  
 James M. Wayne,  
 (One vacancy.)

*Kentucky.*  
 John Adair,  
 Chilton Allan,  
 Henry Daniel,  
 Nathan Gaither,  
 Albert G. Hawes,  
 R. M. Johnson,  
 Joseph Leecompte,  
 Chittenden Lyon,  
 Robert P. Letcher,  
 Thomas A. Marshall,  
 Christopher Tompkins,  
 Charles A. Wickliffe.

*Tennessee.*  
 Thomas D. Arnold,  
 John Bell,

John Blair,  
 William Fitzgerald,  
 William Hall,  
 Jacob C. Isacks,  
 Cave Johnson,  
 James K. Polk,  
 James Standifer.  
*Ohio.*

Joseph H. Crane,  
 Elutheros Cooke,  
 William Creighton, jr.  
 Thomas Corwin,  
 James Findlay,  
 William W. Irwin,  
 William Kennon,  
 Humphrey H. Leavitt,  
 William Russel,  
 William Stanberry,  
 John Thomson,  
 Joseph Vance,  
 Samuel F. Vinton,  
 Elisha Wittlesey.  
*Louisiana.*  
 H. A. Bullard,

Phileman Thomas,  
 Edward D. White.  
*Indiana.*  
 Ratliff Boon,  
 John Carr,  
 Jonathan McCarty.  
*Mississippi.*  
 Franklin E. Plummer.

*Illinois.*  
 Joseph Duncan.  
*Alabama.*  
 Clement C. Clay,  
 Dixon H. Lewis,  
 Samuel W. Mardiz.  
*Missouri.*  
 William H. Ashley.

DELEGATES.  
*Michigan.*  
 Austin E. Wing.  
*Arkansas.*  
 Ambrose H. Sevier.  
*Florida.*  
 Joseph M. White.

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### OFFICERS OF CONGRESS.

#### OFFICERS OF THE SENATE.

<i>Secretary.</i>	Pa.	\$3,000
Walter Lowrie,		
<i>Sergeant at Arms.</i>		
Montjoy Bayley,		1,500
<i>Chaplain.</i>		
William Durbin,		500

#### OFFICERS OF THE HOUSE.

<i>Clerk of the House.</i>	Pa.	\$3,000
M. St Clair Clark,		
Samuel Burch, Chf. Clerk,		1,800
<i>Sergeant at Arms.</i>		
John O. Dunn,		1,500
<i>Chaplain.</i>		
Reuben Post,		500

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## GOVERNORS OF STATES.

		<i>Term begins.</i>	<i>T. Expires.</i>	<i>Salary.</i>
Maine,	Samuel E. Smith,	1st Wednesday of Jan.	1832 do. 1833	\$1,500
N. Hampshire,	Samuel Dinsmoor,	June 5th,	1832 do. 1833	1,200
Vermont,	Wm. A. Palmer,	2d Thursday of Oct.	1831 do. 1832	750
Massachusetts,	Levi Lincoln,	Jan. 1st,	1832 do. 1833	3,666 67
Rhode Island,	Lemuel H. Arnold,	1st Wedn. of May,	1832 do. 1833	400
Connecticut,	John S. Peters,	do.	do.	1,100
New York,	Enos T. Throop,	1st Jan.	1830 do. 1832	4,000
New Jersey,	Peter D. Vroom, jr.	October	1831 do. 1832	2,000
Pennsylvania,	George Wolf,	3d Tuesday of Dec.	1829 do. 1832	2,000
Delaware,	David Hazzard,	3d Tuesday of Jan.	1830 do. 1833	1,333 33
Maryland,	George Howard,	January,	1831 do. 1833	3,500
Virginia,	John Floyd,	31st March,	1831 do. 1834	3,333 33
North Carolina,	Montford Stokes,	December,	1831 do. 1832	2,000
South Carolina,	James Hamilton, jr.	December,	1830 do. 1832	3,500
Georgia,	Wilson Lumpkin,	November,	1831 do. 1833	3,000
Alabama,	John Gayle,	November,	1831 do. 1833	2,000
Mississippi,	Abraham M. Scott,	January 7th,	1832 do. 1834	2,500
Louisiana,	A. B. Rowan,	January,	1831 do. 1835	7,500
Tennessee,	William Carroll,	September 1st,	1831 do. 1833	2,000
Kentucky,	John Beathitt,	September,	1832 do. 1836	2,000
Ohio,	Duncan McArthur,	1st Monday of Dec.	1830 do. 1832	1,000
Indiana,	Noah Noble,	December,	1831 do. 1834	1,000
Illinois,	John Reynolds,	1st Monday of Dec.	1830 do. 1834	1,000
Missouri,	John Miller,	3d Monday of Nov.	1828 do. 1832	1,500

## TERRITORIES.

Michigan,	George B. Porter,	February,	1831 do. 1835	2,000
Florida,	Wm. P. Duvall,	April,	1830 do. 1834	2,500
Arkansas,	John Pope,	February,	1831 do. 1835	2,000

## STATEMENT OF THE FUNDED DEBT OF THE UNITED STATES, ON THE FIRST OF JANUARY, 1832.

stocks.	Date of the acts constituting the several stocks.	When redeemable.	AMOUNT.
Three per cent. stock, revolutionary debt,	4th Aug. 1790	At the pleasure of Government	13,296,626 21
Five per cent. stock, - - - - -	3d March, 1821	After the 1st day of January, 1835, - - -	4,735,296 30
Do. - - - - -	20th April, 1822	One-third after the 31st day of December, 1830, } One-third after the 31st day of December, 1831, } One-third after the 31st day of December, 1832, }	56,704 77
Four and a half per cent. stock - - -	24th May, 1824	After the 1st day of January, 1832, - - -	1,739,524 01
Do. - - - - -	26th May, 1824	One-half after the 31st day of December, 1832, } One-half after the 31st day of December, 1833, }	4,454,727 95
		Total Dolls.	6,194,251 96
			24,282,879 24
Amount of the funded debt 1st January, 1831,			39,082,461 88
Add three per cent. stock, issued for interest on revolutionary debt,			228 64
Deduct Payments, viz.			39,082,690 52
Five per cent. stock, residue of Bank Subscription,			4,000,000
Four and a half per cent. stock, per act of 3d March, 1825, - - -			1,539,336 16
On account of the five million loan, per act of 26th May, 1824, - - -			91,188 92
On account of the five million loan, per act of 24th May, 1824, - - -			3,260,475 99
Five per cent. stock, per act of 15th May, 1820, - - -			999,999 13
Four and a half per cent. per act of 26th May, 1824, residue of the five millions, - - -			4,908,810 21
			14,799,811 28
			24,282,879 24
UNFUNDED DEBT.			
Registered debt, being claims registered prior to the year 1798, for services and supplies during the revolutionary war,			27,919 85
Treasury notes, viz. notes bearing interest, - - - - -			5,010 00
small notes, - - - - -			2,106 00
Mississippi stock. Amount outstanding, including awards not applied for, - - - - -			7,116 00
			4,320 09
			39,355 94

## STATEMENT OF REVENUE RECEIVED THROUGH THE CUSTOMS.

Duties on merchandise,	-	-	-	\$36,304,342	35
tonnage and light money,	-	-	-	65,720	23
passports and clearances,	-	-	-	2,250	
					<u>\$36,372,312 58</u>
Debentures on exports,	-	-	-	4,687,876	71
Drawback on sugar and spirits,	-	-	-	64,979	56
Bounties and allowances,	-	-	-	213,894	59
					<u>\$4,966,760 86</u>
Gross Revenue,	-	-	-	-	31,405,551 72
Expenses of collection,	-	-	-	-	1,180,265 97
					<u>\$30,225,295 75</u>
Net Revenue,	-	-	-	-	

A STATEMENT exhibiting the value and quantities, respectively, of merchandise, on which duties actually accrued during the year 1831, (consisting of the difference between articles paying duty imported, and those entitled to drawback re-exported :) and also of the net revenue which accrued during the same period, from duties on merchandise, tonnage, light-money, passports, and clearances.

## Merchandise paying duties ad valorem.

44,560	dolls. at 12 per cent.	-	-	-	5,347 20
3,301,392	do 12½ do	-	-	-	412,674 00
4,434,468	do 15 do	-	-	-	665,170 20
11,807,570	do 20 do	-	-	-	2,361,514 00
32,600,183	do 25 do	-	-	-	8,150,045 75
4,420,155	do 30 do	-	-	-	1,326,046 50
1,025,480	do 33½ do	-	-	-	341,826 66
1,884,405	do 35 do	-	-	-	659,541 75
345,340	do 40 do	-	-	-	138,136 00
7,867,061	do 45 do	-	-	-	3,540,177 45
2,147,681	do 50 do	-	-	-	1,073,840 50
69,878,295	av. 27 26. 72				<u>\$18,674,320 01</u>

## Duties on specific articles.

1. Wines	3,690,465	galls.	at 18.09	cents av.	\$667,841 60
2. Spirits	1,752,361	do	59.41	do	1,041,222 43
Molasses	15,441,476	do	5		772,073 80
Do	4,067	do	10		406 70
3. Teas	5,459,293	lbs.	31.75	av.	1,733,778 34
4. Coffee	79,010,212	do	1.97	do	1,557,981 05
5. Sugar	69,958,687	do	3.06	do	2,145,303 37
6. Salt	3,036,487	bush.	15	do	454,791 15
7. All other articles					4,606,921 69
					<u>\$12,980,320 13</u>
					31,654,640 14

From which deduct duties on merchandise refunded, after deducting therefrom duties which accrued on merchandise imported, the particulars of which were not rendered by collectors, and difference of calculation

312,072 35

31,342,567 79



Add 10 per cent. extra duty on foreign vessels	29,881 17	
Discount for prompt payment	2,969 80	
Interest on custom-house bonds	22,510 37	
Storage received	4,641 92	
		60,003 26
		<hr/>
		31,402,571 05
Deduct drawback on domestic refined sugar exported	63,688 65	
Do on domestic distilled spirits	1,290 91	
		64,979 56
		<hr/>
Duties on merchandise		31,337,591 49
Add duties on tonnage	46,453 61	
Light-money	19,266 62	
Passports and clearances	2,250 00	
		67,970 23
		<hr/>
Gross revenue		31,405,561 72
Deduct expenses of collection		1,180,265 97
		<hr/>
Net revenue		\$30,225,295 75

## Explanatory statements in relation to specific duties.

## I. WINES.

Madeira,	96,547	galls.	at 50 cents,	\$48,273 50
Sherry,	76,836	do	50	38,418 00
Red, of France and Spain,	910,074	do	10	91,007 40
Other of France, Spain, Germany, &c.	1,946,398	do	15	291,959 70
Of other countries	664,748	do	30	199,424 40
	<hr/>			
	3,694,603			669,083 00
Excess of exportation, wine in bottles, &c.	4,138	do	30	1,241 40
	<hr/>			
	3,690,465	do av.	18.09	667,841 60

## II. SPIRITS.

From grain,	1st proof	378,927	galls.	at 57 cents,	\$215,629 29
	2 do	14,065	do	60	8,439 00
	3 do	33,347	do	63	21,003 61
	4 do	4,192	do	67	2,808 64
	5 do	10,220	do	75	7,665 00
Other materials,	1st & 2d proof	75,352	galls.	at 53 cents,	39,936 56
	3 do	585,494	do	57	333,697 38
	4 do	633,753	do	63	399,264 39
	5 do	17,822	do	72	12,831 64
		<hr/>			
		1,752,482			1,041,280 51
Deduct exported		121	do	48	58 08
		<hr/>			
		1,752,361	do av.	59.41	1,041,222 43

## III. TEAS.

Bohea	486,480	lbs.	at 12 cents,	58,377 60
Souchong and other black	1,350,553	do	25	337,638 25
Do do	74,868	do	10	7,486 80
Hyson Skin and other green	379,820	do	28	106,349 60
Do do	181,033	do	12	15,723 96
Hyson and Young Hyson	2,541,348	do	40	1,016,619 20
Do do	177,437	do	18	31,938 66
Imperial	317,554	do	50	158,777 00
	<hr/>			
	5,459,293	do		1,732,911 07

Extra duty on teas imported from  
other places than China

867 27

5,459,293 do av. 31.75 1,733,773 34

## IV. COFFEE.

Imported	78,413,909	lbs.	at 2 cents,	1,568,278 18
Do	1,002,807	do	1	10,028 07
	<u>79,416,716</u>	do		<u>1,578,306 25</u>
Exported	406,504	do	5	20,325 20
	<u>79,010,212</u>	do av.	1.97	<u>1,557,981 05</u>

## V. SUGAR.

Brown	65,304,411	lbs.	at 3 cents,	1,959,132 33
White clayed or powdered	4,654,276	do	4	186,171 04
	<u>69,958,687</u>	do av.	3.06	<u>2,145,303 37</u>

## VI. SALT.

Imported bushels of	4,498,330	at 15 cents	674,749 50
Exported do	22,241	15	3,336 15
Do do	13,638	20	2,727 60
Bounties and allowances, reduced into bushels, at 15 cts. per bushel	1,425,964	15	213,894 60
	<u>1,461,843</u>		<u>219,958 35</u>
	<u>3,036,487</u>	at 15 cents av.	<u>\$454,791 15</u>

## ALL OTHER ARTICLES.

Species of Merchandise,	Quantity.	Rate of duty.	Duties on
		cents.	
Woollens, not exceeding 33½ cts. per sq. yd.	2,716,456	14	380,303 84
Carpeting, Brussels, Turkey and Wilton,	127,881	70	89,516 70
Venetian and ingrain,	426,000	40	170,400 00
of wool, flax, hemp, &c.	691	32	221 12
matting of flags or other materials,	31,158	15	4,673 70
Oil cloth, patent, painted, or stained,	18,421	50	9,210 50
other than patent, painted, &c.	4,001	25	1,000 25
furniture,	25,398	15	3,809 70
Sail Duck,	do.	9	
do.	do.	9½	
do.	134,675	10	13,467 50
do.	1,901,190	10½	199,624 95
Cotton Bagging,	do.	4½	
do.	196,826	5	9,841 30
Vinegar,	galls.	8	3,419 84
Beer, ale, and porter, in bottles,	do.	20	9,046 60
do. do. in casks,	do.	15	858 90
Oil, spermaceti,	do.	25	148 00
whale and other fish,	do.	15	101 85
olive, in casks,	do.	25	57,902 00
castor,	do.	40	31 20
linseed,	do.	25	48,471 00
rapeseed,	do.	25	52 00

Species of Merchandise.	Quantity.	Rate of duty.	Duties on
		cents.	
Cocoa,	lbs.	1,467,254	1
do.	do.		2
Chocolate,	do.	3,289	4
Sugar candy,	do.		12
loaf	do.	1,848	12
other refined,	do.	778	10
Fruits, almonds,	do.	1,196,619	3
currants,	do.	270,053	3
prunes and plums,	do.	224,212	4
figs,	do.	470,657	3
raisins, jar and Muscatel,	do.	1,274,139	4
other	do.	1,721,474	3
Spices, Cayenne pepper,	do.	1,703	15
ginger,	do.	1,529	2
mace,	do.	1,481	100
nutmegs,	do.	21,544	60
cinnamon,	do.	2,069	25
cloves,	do.	44,136	25
pepper, black,	do.	1,673,690	8
pimento,	do.	1,100,488	6
cassia,	do.	277,671	6
Candles, tallow,	do.	45,694	5
wax,	do.	282	6
spermaceti,	do.	5	8
Cheese,	do.	53,007	9
Soap,	do.	246,964	4
Tallow,	do.	147,907	1
Beef and pork,	do.	7,477	2
Bacon hams and other,	do.	29,196	3
Butter,	do.	138	5
Lard,	do.		3
Saltpetre, refined,	do.	240	3
Vitriol, oil of	do.	16	3
Camphor, crude,	do.	56,103	8
Salts, Epsom,	do.	123	4
Tobacco, manufac'd, other than snuff, &c.	do.	137	10
Snuff,	do.		12
Cigars,	M.	30,690	250
Indigo,	lbs.	280,162	30
Do.	do.	299,090	40
Do.	do.		20
Do.	do.		15
Cotton,	do.	102,321	3
Gunpowder,	do.	61,222	3
Bristles,	do.	309,342	3
Glue,	do.	136,502	5
Paints, ochre, dry,	do.	1,311,472	1
in oil,	do.	568	1½
white and red lead,	do.	124,322	5
do. do.	do.		4
whiting, and Paris white,	do.	100,624	1
orange mineral,	do.	385	5
sugar of lead,	do.	168,471	5
Lead, pig, bar, and sheet,	do.	919,973	3
Do. do.	do.		2
shot,	do.		4
Cordage, tarred,	do.	490,758	4
untarred,	do.	68,276	5
cables, tarred,	do.	38,862	4



Species of Merchandise.	Quantity,	Rate of duty.	Duties on
		cents.	
Cordage, twine and packthread,	lbs. 363,904	5	18,195 20
Corks,	do. 120,633	12	14,475 96
Copper, rods and bolts,	do. 22,967	4	918 68
nails and spikes,	do. 5,653	4	226 12
Fire arms, muskets,	No. 150		
rifles,	do. 24	250	60
Iron and steel wire, not above No. 14,	lbs. 300,863	6	18,051 78
above No. 14,	do. 341,181	10	34,118 10
tacks, brads, &c. not above 16 oz. per	M. 28,947	5	1,447 35
above 16 oz.	lbs. 128,751	5	6,437 55
nails,	do. 677,297	5	33,864 85
spikes,	do. 97,099	4	3,883 96
chain cables, and parts, &c.	do. 1,336,039	3	40,081 17
mill cranks,	do. 20	4	80
mill saws,	No. 5,383	100	5,383
anchors,	lbs. 60,693	2	1,213 86
anvils,	do. 1,283,086	2	25,661 72
smiths' hammers and sledges,	do. 117,227	2½	2,930 67
castings, vessels of	do. 702,138	1½	10,532 07
all other,	do. 628,755	1	6,287 55
braziers' rods, round iron, &c.	do. 512,875	3½	17,950 62
nail and spike rods,	do. 289,278	3½	10,124 73
sheet and hoop,	do. 5,516,162	3½	193,065 67
slit and rolled,	do. 354	3½	12 39
pig and scrap,	cwt. 156,045	62½	97,528 12
bar and bolt, rolled,	do. 329,689	185	609,924 65
hammered,	lbs. 66,620,625	1	666,206 25
Steel,	cwt. 39,716	150	59,574
Hemp, unmanufactured,	do. 93,305	300	279,915
Do. do.	do. 17,817	275	48,996 75
Flax, do.	do.	225	
Do. do.	do.	200	
Do. do.	do.	175	
Wool, do.	lbs. 6,847,149	4	273,885 96
Alum,	cwt. 8	250	20
Copperas,	do. 20	200	40
Wheat flour,	do. 2	50	1
Coal,	bushel. 1,096,775	6	65,806 50
Wheat,	do. 875	25	218 75
Oats,	do. 677	10	67 70
Potatoes,	do. 22,800	10	2,280
Paper, folio and 4to post,	lbs. 20		
cap, writing, and drawing,	do. 377,053	17	64,099 01
printing, copperplate, &c.	do. 2,830	10	283
sheathing, binders, &c.	do. 43,204	3	
all other,	do. 475	15	6,480 60
Books, printed previous to 1775,	vols. 4	4	19
in other languages than			
English, &c.	do. 72,428	4	2,897 12
Latin and Greek, bound,	lbs. 3,124	15	468 60
do. do. boards,	do. 7,156	13	930 28
all other, bound,	do. 17,513	30	5,253 90
do. boards,	do. 101,191	26	26,309 66
Glass ware, cut and not specified,	do. 19,662	3	589 86
plain, and other articles,	do. 772,551	2	15,451 02
apothecaries' vials, not above 6 oz. groce.	802	175	1,403 50
do. do. 8 oz. do.	1	125	1 25
do. do. 4 oz. do.		100	

Species of Merchandise.	Quantity.	Rate of duty.	Duties on
		cents.	
Glass bottles, not exceeding 1 quart, groce.	18,164	200	36,328
not exceeding 2 quarts, do.		250	
not exceeding 4 quarts, do.	14	300	42
demijohns, No.	34,810	25	8,702 50
Glass, window, not above 8 by 10 in. 100 sq. ft.	859	300	2,577
10 by 12 do.	495	350	1,732 50
10 by 15 do.	811	400	3,244
above 10 by 15 do.	3,091	500	15,455
Slates, not exceeding 6 by 12 inches, cwt.	2,485	20	497
12 by 14 do.	10,234	25	2,558 50
14 by 16 do.	59,352	30	17,805 60
16 by 18 do.	8,732	35	3,056 20
18 by 20 do.	26,566	40	10,626 40
20 by 24 do.	17,788	45	8,004 60
above 20 by 24 do.	469	50	234 50
Fish, dried or smoked, quint.	1,404	100	1,404
salmon, pickled, bbls.	2,156	200	4,312
mackerel, pickled, do.	4,529	150	6,793 50
all other do. do.	691	100	691 00
Shoes and slippers, silk, pair.	4,318	30	1,295 40
prunella and nankeen, do.	1,051	25	375 25
leather, &c. for men and women, do.	13,166	25	3,291 50
children's, do.	1,270	15	190 50
Boots and bootees, do.	1,614	150	2,421 00
Playing cards, packs.	4,172	30	1,251 60
Total, dollars,			4,645,646 10

## DEDUCT EXCESS OF EXPORTATION OVER IMPORTATION.

Sail Duck, - - - - -	\$1,465 58
Cotton Bagging, - - - - -	361 35
Cocoa, - - - - -	10,803 02
Sugar Candy, - - - - -	657 24
Lard, - - - - -	172 74
Snuff, - - - - -	187 32
Indigo, - - - - -	5,528 20
White and red lead, - - - - -	3,568 04
Pig and bar lead, - - - - -	3,429 62
Shot, - - - - -	874 64
Fire arms, - - - - -	9,016 50
Flax, - - - - -	1,703 25
Paper, - - - - -	504 41
Glass ware, - - - - -	110
bottles, - - - - -	342 50
	<hr/>
	\$38,724 41
Net amount,	<hr/>
	4,606,921 69

STATEMENT of Public Lands sold, of cash and scrip received in payment therefor, of incidental expenses, and payments into the Treasury on account of Public Lands, during the year 1831.

STATES AND TERRITORIES.	Lands sold.	Purchase money.	Amount received on account of lands sold prior to the 1st July, 1820.	Amount received in cash.	AMOUNT RECEIVED IN SCRIPT.		Aggregate receipts.	Amount of incidental expenses.	Amount paid into the Treasury from 1st Jan. to 31st Dec. 1831.
					Forfeited land scrip.	Military land scrip.			
Ohio,	335,392 64	\$424,989 40	\$16,327 09	\$323,748 83	\$31,061 01	\$86,306 65	\$441,316 49	\$19,729 77	\$304,386 22
Indiana,	554,436 78	694,863 31	16,690 44	599,008 98	9,038 98	103,505 79	711,553 75	18,924 92	572,654 12
Illinois,	339,411 44	424,846 36	5,669 83	379,980 87	10,749 49	39,785 83	430,516 19	17,872 21	375,260 27
Missouri,	296,467 94	374,086 09	4,361 03	376,908 04	1,539 08		378,447 12	14,906 64	341,994 05
Alabama,	661,832 08	893,995 54	74,800 64	948,711 84	20,084 34		968,796 18	21,871 70	925,028 26
Mississippi,	160,798 14	204,675 68	11,422 02	199,216 69	16,881 01		216,097 70	8,075 03	173,780 93
Louisiana,	67,384 28	85,865 58	920 62	86,250 45	535 75		86,786 20	7,886 14	83,870 93
Michigan,	320,476 90	401,342 67	1,803 67	400,159 43	2,986 91		403,146 34	12,402 88	388,848 07
Arkansas,	18,377 33	16,721 77		16,721 77			16,721 87	2,735 58	3,995 50
Florida,	28,279 35	35,637 36		35,437 36	200		35,637 36	3,047 04	40,997 13
Aggregate,	2,777,856.88	3,557,023 76	131,995 34	3,366,144 26	93,076 57	229,798 27	3,689,019 10	127,451 91	3,210,815 48



STATEMENT of the moneys received into the Treasury from all sources other than Customs and Public Lands, for the year 1831.

From dividends on stock in the Bank of the United States, - - - -	\$490,000 00
First and second instalment under the Convention with Denmark, of 28th March, 1828, - - - -	449,248 53
Arrears of Direct tax, - - - \$10,500 01	
Arrearages of internal revenue, - - 6,933 51	
ees on letters patent, - - - 17,280	
Cents coined at the Mint, - - - 35,272 94	
Fines, penalties, and forfeitures, - 4,995 37	
Surplus emoluments of officers of the customs, - - - - 23,791 38	
Postage on letters, - - - - 561 02	
Consular receipts, - - - - 2,519 11	
Interest on debts due by banks to the United States, - - - - 9,156 73	
Persons unknown, stated to be due to the United States, - - - - 294 02	
United States' moiety of the net proceeds under the acts prohibiting the slave trade, - - - - 349 03	
Deposites made to the credit of the Treasurer of the United States, for which drafts were issued but not presented for payment, - - 324 36	
Moneys previously advanced on account of procuring statements of fines and forfeitures, - - - 426 86	
Moneys previously advanced on account of the provisional security of the State and Treasury Departments, - - - - 239 13	
Moneys advanced on account of the third census, - - - - 466 73	
Moneys advanced on account of the light-house on Clay Island, Maryland, - - - - 100 00	
Balances of advances made in the War Department, - - - - 39,097 84	
	152,314 04
	<hr/>
	\$1,091,563 57
From the Customs, - - - - -	\$30,225,295 75
Public lands, - - - - -	3,210,815 48
	<hr/>
Total, - - - - -	\$34,527,684 80

## STATEMENT OF THE EXPENDITURES OF THE U. STATES FOR THE YEAR 1831.

## CIVIL, MISCELLANEOUS, AND FOREIGN INTERCOURSE.

Legislature	\$394,292 42
Executive Departments	559,330 83
Officers of the Mint	9,600 00
Surveyors and their clerks	19,036 00
Commissioner of Public Buildings in Washington	2,000 00
Governments in the Territories of the United States	55,280 99
Judiciary	233,225 75
Preparing a code of civil and criminal jurisprudence for the District of Columbia	1,000 00
	<hr/>
	\$1,373,755 99
Payment of sundry pensions granted by the late and present Government	1,700 00
Mint establishment	44,020 00
Extending the Mint establishment	41,308 13
Unclaimed merchandise	44 52
Light-house establishment	305,326 34
Surveys of public lands	65,269 03
Registers and Receivers of land offices	1,750 00
Preservation of the public archives in Florida	625 00
Land claims in Florida Territory	340 00
Do. St Helena land district	1,600 00
Roads within the State of Ohio, 3 p. c. fund	2,670 27
Roads and canals within the State of Indiana do.	2,957 57
Do. Mississippi do.	5,457 94
Do. Alabama do.	15,155 37
Do. Missouri do.	16,723 01
Marine hospital establishment	65,563 98
Marine hospital at Charleston, S. C.	12,780 20
Subscription to stock in the Chesapeake and Ohio Canal Company	75,000 00
Public buildings in Washington	43,526 00
Penitentiary for the District of Columbia	23,500 00
Payment of balances to collectors, new internal revenue	116 40
Boundary line between Arkansas and Louisiana	2,365 83
Fifth census of the United States	327,781 14
Preparing abstracts of all former censuses	1,000 00

Consular receipts	221 00
Payment of claims for property lost, &c.	850 60
Revolutionary claims	225,404 48
Miscellaneous expenses	104,279 30
	<hr/>
	1,392,336 11
Diplomatic Department	22,342 40
Salaries of Ministers of the United States	52,584 00
Salaries of Charge des Affaires of the U. States	29,887 75
Salaries of Secretaries of Legation	11,000 00
Outfits of the present Minister to Russia	9,000 00
Outfit of the Charge des Affaires to Peru, Chili, Brazil, and Guatamala	18,000 00
Contingent expenses of all the missions abroad	17,119 32
Settlement of the accounts of certain diplomatic functionaries	10,498 01
Outfit and salary of a Charge des Affaires, salary of a Drogoman at Constantinople, and contingent expenses of the Legation	33,500 00
Contingent expenses of foreign intercourse	40,000 00
Agency in relation to the Northeastern boundary	455 46
Expenses of the commission under the Danish Convention	7,636 34
Salaries of the Agents of Claims, at London and Paris	2,500 00
Relief and protection of American seamen	21,537 71
Intercourse with the Barbary Powers	22,161 25
Awards under the first article of the treaty of Ghent	281 76
	<hr/>
	298,554 00

## MILITARY ESTABLISHMENT.

Pay of the army and subsistence of the officers	1,059,495 50
Subsistence	229,392 69
Quartermaster's Department	193,470 07
Transportation of officers' baggage, &c.	42,112 32
Transportation of the army, &c.	91,945 86
Forage	49,044 16
Purchasing Department	114,815 72

Clothing of officers' servants	20,287 42	Light-house at Cleaveland, on Lake Eric, Ohio	2,500 00
Bounties and premiums	22,936 88	Light-house, Buffalo harbor, New York	12,512 00
Expenses of recruiting	11,389 71	Beacon-light at Erie, Lake Erie, Pennsylvania	2,500 00
Medical or Hospital Department	25,985 64	Beacon-light on the pier at Grand river, Ohio	1,000 00
Purchase of woollens	10,000 00	Piers at Oswego, New York	2,662 33
Contingencies of the army	10,613 99	Claim of contractors for losses by storm in 1829, on piers at Oswego, N. York	519 00
Arrearages	5,674 07	Balance due contractors piers at Oswego, N. York	84 92
Invalid and half pay pensions	1,170,665 14	Stone pier head and mole at Oswego, New York	11,130 00
Military Academy	24,328 13	Pier at the mouth of Buffalo harbor, New York	12,900 00
National armories	383,943 56	Piers in the harbor of Dunkirk, New York	6,400 00
Arsenals	81,178 78	Arrearage due for materials delivered for works Dunkirk, New York	702 50
Ordnance	65,731 59	Arrearage due the superintendent of the works at Black Rock, New York	1,800 00
Armament of fortifications	79,213 41	Piers and other works at Stonington, Connecticut	5,250 00
Arming and equipping militia	175,538 81	Piers at the entrance of Kennebunk river, Maine	1,175 00
Repairs and contingencies of fortifications	9,525 12	Piers in La Plaisance Bay, Michigan	165 99
Fort Adams	83,950 25	Completion of sea wall, George's Island, Boston harbor	5,049 86
Fort Calhoun	80,000 00	Completion of sea wall, Deer Island, Boston harbor	12,390 00
Fort Columbus and Castle William	24,876 00	Preservation of Provincetown harbor, Massachusetts	3,154 36
Fort Hamilton	10,000 00	Repairing Plymouth beach, Massachusetts	2,820 00
Fort Jackson	15,000 00	Deepening the harbor of Mobile, Alabama	13,421 22
Fort Macon	51,644 38	Improving the navigation of the Ohio and Mississippi rivers	59,867 00
Fort Monroe	80,000 00	Improving the navigation of the Ohio and Mississippi rivers from Pittsburg to New Orleans	97,000 00
Fort at Mobile Point	98,250 00	Improving the navigation of Red river, Arkansas	2,500 00
Fort at Oak Island, Cape Fear, N. C.	89,200 00	Improving the navigation of Cape Fear river, North Carolina	22,665 00
Fort Wood, Louisiana	3,600 00	Improving the navigation of Connedut creek, Ohio	6,370 00
Materials for a fort on the right bank of the Mississippi	192 00	Improving the navigation of Gennessee river, N. York	16,670 00
Security of Pea Patch Island, Fort Delaware	16,213 94	Improving the harbors of New Castle, Marcus Hook, Chester, and Port Penn	7,400 00
Fortifications at Charleston, S. C.	48,000 00		
Fortifications at Savannah, Georgia	60,801 95		
Fortifications at Pensacola, Florida	100,000 00		
Repairing the battery at Bienville	3,004 00		
Barracks at Fort Winnebago, N. W. Territory	3,272 53		
Barracks at Fort Crawford, Prairie du Chien	6,004 93		
Barracks at Fortress Monroe	1,700 00		
Barracks at Key West, and for other purposes	1,270 15		
Barracks, quarters, hospitals, and store-houses at Green Bay	8,000 00		
Jefferson Barracks, Missouri	1,447 48		
Store-house at Baton Rouge	1,500 00		
Breakwater, Delaware Bay	251,031 50		
Breakwater; Hyannis harbor, Massachusetts	7,680 00		
Breakwater in Merrimack river, Massachusetts	11,500 00		



## EXPENDITURES IN 1831.

[17]

Improving the harbor of Cleveland, Ohio	3,445 00	Pay of gun and blacksmiths, and assistants at the sev- eral agencies	14,058 99
Improving the harbor of Presque Isle, Pennsylvan- ia	1,700 00	Iron, steel, coal, &c. for gun and blacksmith's shops	2,764 36
Removing obstructions Ken- nebeck river, Maine	5,000 00	Transportation and distribu- tion of annuities	5,758 92
Removing obstructions Nan- tucket harbor, Massachu- setts	6,780 00	Provisions for Indians at the distribution of annui- ties	8,234 90
Removing obstructions Big Sodas Bay, New York	17,450 00	Payment of sundry claims for Indian depredations	1,300 00
Removing obstructions Hu- ron river, O.	3,480 00	Building houses for agents, sub-agents, and blacksmith shops	5,990 05
Do. Black river, O.	9,275 00	Provisions, &c. for emigrat- ing Indians, and those now on Kansas river	2,957 63
Do. Grand river, O.	4,675 00	Effecting a treaty with the Creek Indians	4,855 56
Do. Ashtabula creek, O.	7,015 00	Effecting a treaty with the Cherokees	43,279 79
Do. Ocracoke inlet, N. Carolina	14,355 62	To extinguish the claims of the Cherokee Indians to lands in Georgia	10,798 45
Removing obstructions Apa- lachicola river, Florida	8,000 00	Expenses of an exploring delegation of Indians	153 37
Removing obstructions St. Marks river, and harbor, Florida	6,000 00	Contingencies of Indian De- partment	30,353 57
Arrearage due for survey- ing the raft of Red river, Louisiana	187 50	Arrearages of Indian De- partment prior to 1829	60,989 60
Surveys and estimates for roads and canals	23,968 63	Pay of Illinois and other militia	373 31
Cumberland road	172,406 85	Choctaw schools	3,463 00
Road from Mattanawcook to Mars Hill, Maine	22,861 85	Medals for Indian Chiefs	1,000 00
Road from Detroit to Fort Gratiot	3,500 00	To provide for an exchange of lands and the removal of Indians	190,682 23
Do. Detroit to Saganaw bay	3,500 00	For effecting certain Indian treaties, act 20th May, 1826	8,188 08
Do. Detroit to Chicago	6,500 00	For effecting a treaty with the Creek Indians, act 22d May, 1826	8,442 29
Do. Green Bay to Win- nebago lake and Fort Winnebago	2,000 00	For effecting certain Indian treaties, act 2d March, 1829	12,077 27
Road from Alagua to Ma- rianne, Florida	1,890 00	For effecting certain Indian treaties, act 25th March, 1830	50 00
Do. Alachua court- house to Jacksonville, Florida	1,000 00	For effecting the treaty of Putte des Morts, act 20th May, 1830	750 00
Opening the Old King's road in Florida	2,262 37	For effecting a treaty with the Choctaws, act 30th April, 1830	6,143 57
Road from Washington to Jackson, Arkansas	593 60	For effecting a treaty with the Seneca Indians, act 3d March, 1831	7,751 90
Arrearage due to T. S. Knapp	14 75	Expenses of holding certain Indian treaties, act 7th April, 1830	395 00
Florida canal	6,099 00	For effecting certain Indian	
Massachusetts militia claims	419,748 26		
Georgia militia claims	2,148 16		
Payment of mounted volun- teers of Arkansas for ser- vices in 1828	580 83		
Relief of sundry individuals	13,566 45		
Civilization of Indians	7,737 81		
Pay of Indian Agents	28,078 63		
Pay of Indian Sub-agents	18,902 33		
Presents to Indians	17,496 61		
Pay of Interpreters and translators	20,239 92		

treaties, act 13th January, 1831	37,609 25
For effecting certain Indian treaties, act 2d March 1831	81,097 94
To carry into effect certain Indian treaties, act 2d March, 1831	112,367 80
Annuity to Seneca Indians, act 19th February, 1831	6,000 00
Deficiency due to the Seneca Indians	2,614 40
Annuities to Indians	174,786 32
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	6,954,813 75

From which deduct the following repayments:

Repairing piers, and improving the harbor of Marcus Hook	245 52
Repairing piers at Port Penn, Marcus Hook, and Fort Mifflin	3 44
Survey of Deep Creek, Va.	55 90
Survey of Pasquotank river, N. Carolina	32 75
Road from Fort Smith to Fort Towson, Arkansas	1,806 52
Road from Colerain to Tampa bay, Florida	1,404 58
Repairs of Fort Delaware	20 19
Barracks at Fort Trumbull, Connecticut	1 16
Expenses of a brigade of militia	1,000 00
To aid the emigration of the Creek Indians	1,504 03
Treaties with the Florida Indians	195 00
Certain Indian treaties, act 24th May, 1823	5,305 93
	<hr/>
	11,575 02
	<hr/>
	6,943,238 73

#### NAVAL ESTABLISHMENT.

Pay and subsistence of the navy afloat	1,573,890 95
Do. shore stations	45,583 83
Pay of Superintendents, artificers, &c.	55,240 08
Provisions	445,070 30
Medicine and hospital stores	29,623 60
Repairs and improvements of the navy yards	201,238 46
Timber sheds	39,374 29
Timber docks at Norfolk, Washington, and Boston	2,748 78
Repairing and enlarging wharves at Washington and Norfolk	2,393 76
Repairs of store-houses at	

Washington, and for two building ways at Norfolk	5,443 71
Ordnance and ordnance stores	17,710 65
Gradual increase of the navy	7,619 32
Gradual improvement of the navy	490,470 56
Repairs of vessels	554,752 62
Covering and preserving ships in ordinary	10,422 30
Building, equipping, and employing three schooners	63,544 45
Removing and rebuilding the monument in the navy yard, Washington	2,100 00
Agency on the coast of Africa, pro. slave trade	11,406 63
Reimbursement of the Marshall of Florida for expenses of certain Africans	6,249 18
Support of certain Africans brought into New Orleans in the Spanish schooner Fenix	594 80
Relief of sundry individuals	18,111 59
Relief of the widows and orphans of the officers, seamen, and marines of the sloop of war Hornet	1,735 24
Privateer pension fund	225 90
Contingent expenses	282,716 54
Pay and subsistence of the marine corps	106,414 14
Subsistence of 400 non-commissioned officers, &c. of the marine corps, serving on shore	14,777 44
Extra emoluments to officers of the marine corps	10,203 46
Arrearages of pay and subsistence of the marine corps, 1829	11,973 00
Clothing for the marine corps	34,930 32
Medicines and hospital stores for the marine corps	2,513 30
Military stores for the marine corps	2,882 00
Fuel for the marine corps	9,639 02
Contingent expenses of the marine corps	18,964 43
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	4,010,564 65

From which deduct the following repayments:

Navy Hospital Fund	5,018 38
Navy Pension Fund	138,959 73
Building ten sloops of war	39 05
Repairs of sloops of war	4,849 33
Navy yard at Pensacola	842 30
Timber sheds, Boston	485 54
Arrearages prior to 1828	183 63
Contingent expenses, 1824	92 10
Do. 1826	8 55
Do. 1827	91 80

## EXPENDITURES IN 1831.

19]

Do. not enumerated,	
1827	94 78
Do. 1828	3,680 46
Repairs of officers' quarters	
at the Marine barracks,	
Washington	35 93
	<hr/>
	154,381 58
	<hr/>
	3,856,183 07

## PUBLIC DEBT.

Interest on the funded debt	1,383,582 95
Redemption of the 5 per	
cent. stock of 1817	4,000,000 00
Redemption of the 5 per	
cent. stock of 1820	999,999 13
Redemption of the exchanged	
4½ per cent. stock of	
1825	1,539,336 16

Redemption of the 4½ per	
cent. stock, per act of 26th	
May, 1824	5,000,000 00
Redemption of the 4½ per	
cent. stock, per act of 24th	
May, 1824	3,260,475 99
Reimbursement of Missis-	
sippi stock	685 00
Principal and interest of	
Treasury notes	8 00
Certain parts of the domestic	
debt	125 20

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	\$16,184,212 43
From which deduct the	
following repayments:	
Interest on Louisiana stock	9,834 21
	<hr/>
	16,174,378 22
	<hr/>
Total,	\$30,038,446 12



STATEMENT of the COMMERCE of each State and Territory, commencing on the 1st day of October, 1830, and ending on the 30th day of September, 1831.

STATES AND TERRITORIES.	VALUE OF IMPORTS.	VALUE OF EXPORTS.		NAVIGATION.			
		Domestic produce.	Foreign produce.	Quantity of American tonnage.		Quantity of Foreign tonnage.	
				Entered.	Departed.	Entered.	Departed.
Maine, - - -	941,407	799,748	5,825	51,635	61,582	49,819	49,872
New Hampshire, - -	146,205	109,456	1,766	7,198	4,362		
Vermont, - - -	166,206	925,127		20,201	20,201		
Massachusetts, - -	14,269,056	4,027,201	3,706,562	182,459	157,530	9,760	7,483
Rhode Island, - -	562,161	348,250	19,215	23,845	22,787	100	
Connecticut, - - -	405,066	482,073	810	17,750	20,139		
New York, - - -	57,077,417	15,726,118	9,809,026	315,972	254,331	77,719	72,444
New Jersey, - - -		11,430		369	703		
Pennsylvania, - - -	12,124,083	3,594,302	1,919,411	71,232	65,149	8,826	7,596
Delaware, - - -	21,656	34,514		1,550	799	2,186	965
Maryland, - - -	4,826,577	3,730,506	578,141	55,371	65,370	10,455	10,276
District of Columbia, -	193,555	1,207,517	13,458	4,796	19,362	872	873
Virginia, - - -	488,522	4,149,986	489	22,933	48,719	9,985	11,879
North Carolina, - -	196,356	340,973	167	16,773	30,450	1,729	1,990
South Carolina, - -	1,238,163	6,528,605	46,596	24,379	48,426	29,011	29,045
Georgia, - - -	399,940	3,957,245	2,568	15,543	35,747	13,491	14,307
Alabama, - - -	224,435	2,412,862	1,032	10,126	14,707	11,840	10,953
Mississippi, - - -							
Louisiana, - - -	9,766,693	12,835,531	3,926,458	76,231	96,753	55,541	53,558
Ohio, - - -	617	14,728		91	91	138	138
Florida Territory, - -	115,710	28,493	2,002	4,455	5,163	476	610
Michigan Territory, -	27,299	12,392		43	43		
Total, dollars,	103,191,124	61,277,057	20,033,526	922,952	972,504	281,948	271,994

AMERICAN and Foreign tonnage entered into, and departed from each District, from Sept. 30, 1830, to Sept. 30, 1831.

DISTRICTS.	AMERICAN.		FOREIGN.	
	Entered.	Departed.	Entered.	Departed.
Tons.				
Passamaquoddy, . . . . .	3,953	4,845	49,331	49,331
Machias, . . . . .	318		133	
Frenchman's Bay, . . . . .	952	1,194		
Waldoborough, . . . . .	870	568		
Wiscasset, . . . . .	955	384		
Bath, . . . . .	7,668	7,281	31	31
Penobscot, . . . . .	1,594	1,039		
Kennebunk, . . . . .	1,066	1,588		
Portland, . . . . .	33,621	41,830	324	510
Belfast, . . . . .	566	2,407		
Saco, . . . . .	72	446		
York, . . . . .				
Portsmouth, . . . . .	7,198	4,362		
Vermont, . . . . .	20,201	20,201		
Newburyport, . . . . .	5,890	5,921		
Ipswich, . . . . .	88			
Gloucester, . . . . .	3,605	3,373		80
Salem, . . . . .	13,043	16,759	148	
Marblehead, . . . . .	1,127	893		
Boston, . . . . .	116,762	94,708	9,612	7,403
Plymouth, . . . . .	2,400	1,732		
Edgartown, . . . . .	13,332	3,141		
New Bedford, . . . . .	23,165	30,280		
Barnstable, . . . . .	2,037	56		
Dighton, . . . . .	960	667		
Newport, . . . . .	5,190	4,064	100	
Bristol, . . . . .	6,304	9,068		
Providence, . . . . .	12,351	9,655		
New London, . . . . .	7,057	8,314		
Middletown, . . . . .	2,571	1,723		
New Haven, . . . . .	7,832	9,466		
Fairfield, . . . . .	290	636		
New York, . . . . .	278,571	225,721	55,107	50,688
Sag Harbor, . . . . .	591	758		
Champlain, . . . . .	18,364	18,685		45
Oswego, . . . . .	3,692	3,692	18,919	18,919
Buffalo, . . . . .	9,720		928	
Sacket's Harbor, . . . . .	3,953	3,899		
Genesee, . . . . .	704	669	419	446
Niagara, . . . . .	377	907	2,346	2,346
Perth Amboy, . . . . .	146	672		
Bridgetown, . . . . .		31		
Great Egg Harbor, . . . . .	223			
Philadelphia, . . . . .	71,232	65,149	8,826	7,596
Delaware, . . . . .	1,550	799	2,186	965
Baltimore, . . . . .	54,790	64,872	10,455	10,276
Snow Hill, . . . . .	581	498		
Georgetown, . . . . .	629	4,376		
Alexandria, . . . . .	4,167	14,986	872	878
Norfolk, . . . . .	9,841	16,493	8,125	7,404
Petersburg, . . . . .	5,068	6,733		
Richmond, . . . . .	6,124	22,398	1,860	4,475
East River, . . . . .	461	337		
Tappahannock, . . . . .	814	1,911		
Folly Landing, . . . . .	165	339		
Cherry Stone, . . . . .	460	508		
Wilmington, . . . . .	8,844	17,467	1,611	1,926
Newbern, . . . . .	2,118	3,286	64	64
Washington, . . . . .	728	1,072		
Edenton, . . . . .	758	2,241		
Camden, . . . . .	3,722	4,238	54	
Plymouth, . . . . .	476	1,532		
Beaufort, . . . . .	127			
Ocracoke, . . . . .		704		
Charleston, . . . . .	24,379	48,426	29,011	29,045
Savannah, . . . . .	15,250	34,949	13,026	13,842
Brunswick, . . . . .	293	798	465	465
Pensacola, . . . . .	162	581		
Appalachicola, . . . . .	141			
Key West, . . . . .	4,152	4,582	476	610
Mobile, . . . . .	10,126	14,707	11,840	10,953
Mississippi, . . . . .	76,231	96,753	55,541	53,558
Cuyahoga, . . . . .	91	91	138	138
Detroit, . . . . .	43	43		
Total,	922,952	972,504	281,948	271,994

STATISTICAL VIEW of the Commerce of the United States, exhibiting the value of every description of Imports from, and the value of articles of every description of Exports to, each Foreign country; also, the tonnage of American and Foreign vessels arriving from, and departing to, each Foreign country during the year ending on the 20th day of September, 1831.

COUNTRIES.	COMMERCE.			NAVIGATION.				
	VALUE OF EXPORTS.			American tonnage.		Foreign tonnage.		
	VALUE OF IMPORTS.	Domestic pro- duce.	Foreign pro- duce.	Total.	Entered in- to the U. S.	Departed from U. S.	Entered in- to the U. S.	Departed from U. S.
Dollars.								
Russia	1,608,328	114,852	347,914	462,766	8,931	4,310	577	
Prussia	50,970	27,043		27,043	700	387		
Sweden and Norway	901,812	190,511	86,519	277,030	11,346	3,232	2,999	472
Swedish West Indies	218,918	251,937	11,111	263,048	4,793	7,199	262	552
Denmark	575	178,333	176,883	355,216		3,060		
Danish West Indies	1,651,641	1,421,075	224,502	1,645,577	27,501	41,730	2,827	2,708
Netherlands	989,837	1,707,292	212,860	1,920,152	24,076	23,168	349	1,994
Dutch West Indies	343,799	370,857	45,274	416,131	11,296	11,430	312	194
Dutch East Indies	319,395	128,884	631,442	760,326	2,533	6,498		
England	41,854,323	28,841,430	2,367,439	31,203,869	223,345	235,345	84,324	83,461
Scotland	1,977,830	1,185,142	5,567	1,190,709	5,674	6,312	11,008	9,102
Ireland	261,564	589,941		589,941	4,388	7,838	7,020	2,306
Gibraltar	150,517	429,087	165,786	594,873	3,599	11,703		256
British African ports		6,064		6,064		121		
British East Indies	1,544,273	132,442	675,390	807,832	5,342	6,481		
British West Indies	1,303,301	1,417,291	23,962	1,441,253	38,046	40,922	23,760	17,903
Newfoundland, &c.					275	277	736	
British American Colonies	864,909	4,026,392	35,446	4,061,838	92,672	79,364	82,557	94,776
Other British Colonies					248	434		
Hanse towns	3,493,301	1,812,241	779,931	2,592,172	15,934	17,147	12,175	17,487
France on the Atlantic	12,876,977	4,963,557	3,228,452	8,192,009	40,849	48,022	8,666	3,722
France on the Mediterranean	1,188,766	671,867	300,926	972,793	13,774	15,459	493	1,477
French West Indies	671,842	704,833	13,044	717,877	26,704	35,334	2,793	2,254



Spain on the Atlantic	566,072	235,584	63,428	299,012	6,760	4,598	1,068
Spain on the Mediterranean	709,022	75,121	7,198	82,319	9,583	1,905	536
Teneriffe and the other Canaries	125,159	34,931	3,446	38,377	1,963	1,418	
Manilla and Philippine Islands	348,995	15,994	16,830	32,824	2,938	249	
Cuba	8,371,797	3,634,144	1,259,698	4,893,842	132,830	19,639	17,816
Other Spanish West Indies	1,580,156	261,901	53,245	315,046	24,060	8,272	1,051
Portugal	124,446	39,149	2,356	41,505	5,043	1,598	1,451
Madeira	177,369	171,563	5,728	177,291	2,514	5,163	131
Fayal and the other Azores	32,092	10,549	6,049	16,598	660	475	251
Cape de Verd Islands	63,643	45,432	13,557	58,989	875	1,200	236
Italy	1,704,264	371,515	323,010	694,525	10,683	9,120	
Sicily	144,047	2,369	-	2,369	2,080	378	
Trieste, &c.	161,062	276,561	262,808	539,369	1,920	4,215	
Turkey	521,598	38,503	298,304	336,807	3,918	2,935	
Hayti	1,580,578	1,126,698	191,677	1,318,375	26,446	27,807	1,006
Mexico	5,166,745	1,091,489	5,086,729	6,178,218	22,377	22,303	10,019
Central Republic of America	198,504	141,179	165,318	306,497	2,821	3,315	
Colombia	1,207,154	375,319	282,830	658,149	9,174	7,198	56
Honduras	44,463	46,233	13,732	59,965	1,456	1,449	223
Brazil	2,375,829	1,652,193	423,902	2,076,095	29,855	36,892	203
Argentine Republic	928,103	415,489	244,290	659,779	9,652	8,169	
Cisplatine Republic	917,788	8,560	7,616	16,176	2,577	356	
Peru	413,758	849,493	518,662	1,368,155	3,729	11,145	
Chili	4,924	19,922	15,731	35,653	703	1,018	242
South America, generally					929		
Cape of Good Hope		244,790	1,046,045	1,290,835	4,316	5,061	
China	3,083,205	48,268	251,126	299,394	1,171	2,447	
Asia, generally	77,861					669	
East Indies, generally		628,153	7,474	635,627	2,903	17,839	400
West Indies, generally	10,691	25,702	15	25,717	4,169	560	
Europe, generally	148,932	175,166	69,891	245,057	2,511	5,098	148
Africa, generally	51,186	16,910	8,963	25,873	29,581	39,470	
South Seas	67,635	27,206	51,420	78,626	375	783	
Northwest Coast of America	11,168				80		
Uncertain							
Total	103,191,124	61,277,057	20,033,526	81,310,583	922,952	972,504	271,994
						281,948	

STATEMENT exhibiting a condensed view of the Tonnage of the several Districts of the United States, on the last day of December, 1830.

DISTRICTS.	Registered tonnage.	Enrolled and Licensed Tonnage.	Total tonnage of each District.
	Tons and 95ths.		
Passamaquody, Maine, - - -	7,636 31	2,850 09	10,486 40
Machias, - - - - -	195 18	3,904 58	4,099 76
Frenchman's Bay, - - - -	2,612 21	3,478 09	6,090 30
Penobscot, - - - - -	3,575 80	15,601 20	19,177 05
Belfast, - - - - -	2,053 47	11,192 25	13,245 72
Waldoborough, - - - - -	2,802 77	18,986 73	21,789 55
Wiscasset, - - - - -	2,232 71	5,716 31	7,949 07
Bath, - - - - -	16,313 09	10,355 45	26,668 54
Portland, - - - - -	29,317 30	13,400 49	42,717 79
Saco, - - - - -	953 19	2,387 20	3,340 39
Kennebunk, - - - - -	2,789 67	1,999 55	4,789 27
York, - - - - -	103 52	853 73	957 30
Portsmouth, New Hampshire, -	9,753 03	8,490 27	18,243 30
Newburyport, Massachusetts, -	9,714 44	6,862 98	16,577 47
Ipswich, - - - - -	140 10	2,191 75	2,331 85
Gloucester, - - - - -	2,098 28	9,642 69	11,741 02
Salem, - - - - -	21,510 89	6,684 69	28,195 63
Marblehead, - - - - -	1,196 83	5,742 15	6,949 03
Boston, - - - - -	100,214 83	34,794 29	135,009 17
Plymouth, - - - - -	11,090 52	8,386 22	19,476 74
Dighton, - - - - -	301 33	3,360 37	3,661 70
New Bedford, - - - - -	46,086 76	9,169 74	55,256 55
Barnstable, - - - - -	2,409 27	22,775 61	25,184 88
Edgartown, - - - - -	2,012 41	780 41	2,792 82
Nantucket, - - - - -	18,854 22	3,473 29	22,327 51
Providence, Rhode Island, - -	9,876 67	4,523 75	14,400 47
Bristol, - - - - -	6,654 84	1,431 83	8,086 72
Newport, - - - - -	4,879 83	3,543 91	8,423 79
Middletown, Connecticut, -	1,604 77	7,429 90	9,033 72
New London, - - - - -	10,004 69	6,208 40	16,213 14
New Haven, - - - - -	2,954 38	4,174 48	7,128 86
Fairfield, - - - - -	425 11	8,462 72	8,887 83
Vermont, Vermont, - - - -	877 38		877 38
Champlain, New York, - - -	2,417 38		2,417 38
Sacket's Harbor, - - - - -		942 32	942 32
Oswego, - - - - -	505 79	612 79	1,118 63
Niagara, - - - - -			
Genesee, - - - - -	585 86	1,082 79	1,668 70
Oswegatchie, - - - - -	128 03	17 65	145 68
Buffalo Creek, - - - - -	28 21	2,272 16	2,300 37
Sag Harbor, - - - - -	4,465 32	2,808 82	7,274 19
New York, - - - - -	101,946 49	154,710 93	256,557 47
Cape Vincent, - - - - -	85 80	187 86	273 71
Perth Amboy, New Jersey, -	458 57	7,746 44	8,205 06
Bridgetown, - - - - -	115 33	10,169 23	10,284 56
Burlington, - - - - -		2,393 41	2,393 41
Little Egg Harbor, - - - -		2,619 05	2,619 05
Great Egg Harbor, - - - -		9,481 13	9,481 13
Philadelphia, Pennsylvania, -	47,935 32	23,754 57	71,689 89
Presque Isle, - - - - -	44	481 24	525 24
Wilmington, Delaware, - - -	143	12,326 38	12,469 38
Baltimore, Maryland, - - -	23,941 52	11,678 68	35,621 25

## STATEMENT — CONTINUED.

DISTRICTS.	Registered Tonnage.	Enrolled and Licensed Tonnage.	Total tonnage of each District.
	Tons and 95ths.		
Oxford, - - - - -		9,135 06	9,135 06
Vienna, - - - - -	345	10,340 60	10,685 60
Snow Hill, - - - - -	143 52	3,996 70	4,140 27
Annapolis, - - - - -	20 15	3,091 60	3,111 75
St Mary's, - - - - -		1,672 57	1,672 57
Georgetown, Columbia, - - -	1,760 28	3,564 09	5,324 37
Alexandria, - - - - -	4,462 64	3,937 91	8,400 60
Norfolk, Virginia, - - - - -	3,937 43	6,364 20	10,301 63
Petersburg, - - - - -	1,600 01	1,604 95	3,205 01
Richmond, - - - - -	1,904 04	1,105 42	3,009 46
Yorktown, - - - - -		4,407 39	4,407 39
Tappahannock, - - - - -	1,898 67	3,700 34	5,599 06
Folly Landing, - - - - -	79 55	2,558 25	2,637 80
Cherry Stone, - - - - -	154 42	1,946 18	2,100 60
East River, - - - - -	487 11	2,119 75	2,606 86
Wilmington, North Carolina, -	8,309 83	414 66	8,724 54
Newbern, - - - - -	1,357 39	1,986 34	3,343 73
Washington, - - - - -	1,067 03	1,618 79	2,685 82
Edenton, - - - - -	993 89	2,730 41	3,724 35
Camden, - - - - -	2,261 88	2,575 57	4,837 50
Beaufort, - - - - -	530 01	847 09	1,377 10
Plymouth, - - - - -	240 56	263 09	503 65
Ocracoke, - - - - -	516 23	1,172 64	1,688 87
Charleston, South Carolina, -	6,659 50	6,695 34	13,354 84
Georgetown, - - - - -	333 93	1,447 06	1,831 04
Beaufort, - - - - -			
Savannah, Georgia, - - - - -	3,849 94	2,280 80	6,130 79
Sunbury, - - - - -			
Hardwick, - - - - -			
Brunswick, - - - - -	509 10	280 47	789 57
St Mary's, - - - - -		450 03	450 03
Miami, Ohio, - - - - -			
Cuyahoga, - - - - -		1,029 64	1,029 64
Sandusky, - - - - -	94 93	868 03	963 01
Detroit, Michigan, - - - - -	98 61	1,233 27	1,331 88
Michillimackinac, - - - - -		114 33	114 33
Mobile, Alabama, - - - - -	1,585 79	3,778 84	5,364 68
Blakely, - - - - -			
Pearl River, Mississippi, - - -		870 88	870 88
New Orleans, Louisiana, - - -	13,234 27	31,793 20	45,027 47
Teche, - - - - -			
Pensacola, Florida, - - - - -	243 60	1,037 38	1,281 03
St Augustine, - - - - -	450 52	155 60	606 17
St Marks, - - - - -	151 49	70 86	222 40
Key West, - - - - -	1,094 69		1,094 69
Total,	576,475 33	615,301 10	1,191,776 43



A COMPARATIVE VIEW of the Registered, Enrolled, and Licensed Tonnage of  
the United States, from 1815, to 1830, inclusive.

YEARS.	Registered tonnage.	Enrolled and licens- ed tonnage.	Total tonnage.
	Tons and 95ths.		
1815	854,294 74	513,833 04	1,368,127 78
1816	800,759 63	571,458 85	1,372,218 53
1817	809,724 70	590,186 66	1,399,911 41
1818	606,088 64	609,095 51	1,225,184 20
1819	612,930 44	647,821 17	1,260,751 61
1820	619,047 53	661,118 66	1,280,166 24
1821	619,096 40	679,062 30	1,298,958 70
1822	628,150 41	696,548 71	1,324,699 17
1823	639,920 76	696,644 87	1,336,565 68
1824	669,972 60	719,190 37	1,389,163 02
1825	700,787 08	722,323 69	1,423,111 77
1826	737,978 15	796,212 68	1,534,190 83
1827	747,170 44	873,437 34	1,620,607 78
1828	812,619 37	928,772 50	1,741,391 87
1829	650,142 88	610,654 88	1,260,977 81
1830	576,475 33	615,301 10	1,191,776 43

STATEMENT of the number of vessels, and the amount of tonnage, which were built, registered, enrolled, and licensed, in each State and Territory of the United States, during the year ending on the 31st of December, 1880.

STATE OR TERRITORY.	REGISTERED VESSELS.						ENROLLED AND LICENSED VESSELS.						Total number of ves- sels registered, en- rolled, and licensed.	Total tonnage, registered, en- rolled, and li- censed.	
	Ships.	Brigs.	Schooners.	Sloops.	Steam boats.	Registered tonnage.	Number of				Tons, 95ths.				
							Ships.	Brigs.	Schooners.	Sloops.		Steamboats			Enrolled and licensed tonnage.
Maine,	3	9	6			3,364 45	1	61				5,121 63	80	8,486 13	
New Hampshire,	2		1			844 10	2					273 46	5	1,117 56	
Vermont,															
Massachusetts,	8	11	7			6,082 15	6	66	8	1		5,197 57	108	11,279 72	
Rhode Island,		1	1			222 01	2		5			574 71	9	796 72	
Connecticut,	1	1	1	2		722 20	1	9	9			1,769 00	24	2,491 20	
New York,	5	9	3			4,201 17	1	14	7	7		2,975 43	45	7,176 60	
New Jersey,							1	23	29	1		2,365 53	34	2,365 53	
Pennsylvania,	2	1	2	1		947 77	3	7	2	2		1,080 81	20	2,028 63	
Delaware,							3	3	3	3		436 81	9	436 81	
Maryland,	2	7	8		1	3,984 64		113	4	1		6,871 37	136	10,856 06	
District of Columbia,			1			86 19		2	1			98 03	4	184 22	
Virginia,			2			185 08		35	4	1		1,999 44	42	2,185 52	
North Carolina,		1	3			408 06		17	4			1,112 42	25	1,520 48	
South Carolina,								4	4	2		381 76	6	381 76	
Georgia,								4				47 00	1	47 00	
Alabama,			1			32 85		1	3			111 29	5	144 19	
Mississippi,								2	1			95 25	3	95 25	
Louisiana,			1	4		107 11		1	7	24		4,628 58	37	4,735 69	
Ohio,								2	2			58 16	2	58 16	
Michigan Territory,				1		14 37		2	2			146 20	5	160 57	
Florida, East and West,			1			40 36		1	4			130 90	6	171 31	





# RECAPITULATION of the Tonnage of the United States, for the year 1830.

## REGISTERED TONNAGE.

Tons. 95ths.

The registered vessels employed in the foreign trade at the close of the year 1830 . . . . . 576,475 33

## ENROLLED AND LICENSED TONNAGE.

The enrolled vessels employed in the coasting trade at the close of the year 1830, 496,639 51  
 The licensed vessels under 20 tons do. do. 20,338 62  
 516,978 18

## FISHING VESSELS.

The enrolled vessels employed in the cod fishery at the close of the year 1830, 59,041 44  
 Do. do. mackerel fishery do. do. 35,973 38  
 Do. do. whale fishery do. do. 792 87  
 The licensed vessels under 20 tons employed in the cod fishery at the close of the year 1830, . . . . . 3,515 13  
 98,322 87  
 1,191,776 43

The registered tonnage employed other than in the whale fishery during the year 1830, . . . . . 537,563 46  
 Employed in the whale fishery, . . . . . 38,911 82  
 As above, 576,475 33

The aggregate amount of the tonnage of the United States on the 31st December, 1830, is stated at . . . . . 1,191,776 43

### Whereof —

Permanent registered tonnage, . . . . . 468,899 10  
 Temporary do. . . . . 87,576 23  
 Total registered tonnage, . . . . . 576,475 33  
 Permanent enrolled and licensed tonnage, . . . . . 584,950 70  
 Temporary do. do. . . . . 6,496 55  
 Total enrolled and licensed tonnage, . . . . . \*591,447 30  
 Licensed vessels under 20 tons employed in the coasting trade, . . . . . 20,338 62  
 Do. do. do. cod fishery, . . . . . 3,515 13  
 Total licensed tonnage under 20 tons, . . . . . 23,853 75  
 1,191,776 43

Of the enrolled and licensed tonnage, there were employed in the coasting trade, 496,639 51  
 Do. do. do. whale fishery, . . . . . 792 87  
 Do. do. do. cod fishery, . . . . . 58,041 44  
 Do. do. do. mackerel fishery, . . . . . 35,973 38  
 As above, \*591,447 30

Of the enrolled tonnage employed in the coasting trade, amounting as above stated, to . . . . . 591,447 30  
 There were employed in steam navigation, . . . . . 63,052 89

NOTE.—The decrease of the registered tonnage for the year 1830, is shown as follows :

	Registered vessels.					Registered Tonnage.
	Ships.	Brigs.	Sch'rs.	Sloops.	Steam-boats.	Tons. 95ths.
There were sold to foreigners, for the year 1830 -	2	37	28	5	-	10,058 54
There were lost at sea, for the year 1830 - - -	1	37	26	2	-	12,545 00
There were condemned as unseaworthy, for the year 1830	13	23	6	1	1	9,197 87
	16	97	60	8	1	31,801 46
There were built during the year 1830 - - -	23	39	39	8	1	21,242 71
Diminution of registered tonnage is - - -	-	53	21	-	-	10,558 70
	23	97	60	8	1	31,801 46
Amount of diminished registered tonnage brought down -						10,558 70
Amount in favor of increased tonnage - - - -						18,730 58
						29,289 33
Amount of diminished registered tonnage, above, brought down						63,108 80
Do. do. enrolled tonnage, above, brought down -						26,199 04
						89,307 84

NOTE.—The increase of the enrolled tonnage for the year 1830, is shown as follows :

	Enrolled vessels.					Enrolled Tonnage.
	Ships	Brigs.	Sch'rs	Sloops	Steam-boats.	Tons, 95ths.
There were built during the year 1830	2	17	364	108	36	36,841 48
	2	17	364	108	36	36,841 48
There were sold to foreigners, in the year 1830 -	-	-	-	-	-	-
There were lost at sea, for the year 1830 -	-	4	62	16	-	5,206 22
There were condemned as unseaworthy, for the year 1830 - - -	-	-	20	27	-	2,345 88
Difference in favor of increased enrolled tonnage is	2	13	282	65	36	29,289 33
	2	17	364	108	36	36,841 48
Difference in favor of increased enrolled tonnage brought down, - - -						29,289 33
						29,289 33
The difference in the licensed tonnage under 20 tons, above, brought over, -						1,555 83
The amount in favor of enrolled tonnage brought down, - - -						18,730 53
The actual decrease of tonnage appears to be - - - -						69,021 38
						89,307 84

# IMPORTS.

[31

SUMMARY STATEMENT of the quantity and value of Goods, Wares, and Merchandise, imported into the United States, in American and Foreign vessels, from the 1st day of October, 1830, to the 30th day of September, 1831.

SPECIES OF MERCHANDISE.	In American vessels.	In Foreign vessels.	Total.
	Dollars.		
VALUE OF MERCHANDISE FREE OF DUTY.			
Articles imported for the use of the U. States - - -	292		292
<i>Articles specially imported for incorporated philosophical societies, &amp;c.</i>			
Philosophical apparatus and instruments - - -	5,550	5,367	10,917
Books, maps and charts - - -	14,829	904	15,733
Statuary, busts, casts and specimens of sculpture - - -	721		721
Paintings, drawings, etchings and engravings - - -	2,478		2,478
Medals and collections of antiquity - - -	5		5
Specimens of botany - - -	5,386	1,072	6,458
Models of invention and machinery - - -	11		11
Anatomical preparations - - -	1,839		1,839
Antimony, regulus of - - -	19,101	1,386	20,487
Lapis calaminaris, teutenegue, spelter or zinc - - -	23,218	6,505	29,723
Burr-stones, unwrought - - -	38,865	1,879	40,744
Brimstone and sulphur - - -	36,634		36,634
Cork tree, bark of - - -	929	335	1,264
Clay, unwrought - - -	6,950	3,761	10,711
Rags of any kind of cloth - - -	274,795	1,822	276,617
Furs of all kinds - - -	396,968	20,070	417,038
Hides and skins, raw - - -	2,967,362	90,181	3,057,543
Plaster of Paris - - -	41,202	78,242	119,444
Barilla - - -	41,332	2,228	43,560
Wood, dye - - -	275,079	83,878	308,957
unmanufactured mahogany - - -	297,585	34,526	332,111
Animals for breed - - -	17,675	888	18,563
Pewter, old - - -	1,499	44	1,543
Tin in pigs and bars - - -	133,517	863	134,380
Brass, old - - -	1,660	769	2,429
Copper in pigs and bars - - -	529,223	1,454	530,682
in plates suited to the sheathing of ships - - -	510,893	49,716	560,609
for the use of the mint - - -	14,735		14,735
old, fit only to be remanufactured - - -	96,684	22,597	119,281
Bullion, gold - - -	161,246	4,945	166,191
silver - - -	618,371	67,912	686,283
Specie, gold - - -	668,589	97,249	765,838
silver - - -	4,434,303	1,253,330	5,687,633
All other articles - - -	35,017	154	35,171
Total - - -	11,674,548	1,782,077	13,456,625



## STATEMENT—CONTINUED.

VALUE OF MERCHANDISE SUBJECT TO DUTIES AD VALOREM.	In American vessels.	In Foreign vessels.	Total.
	Dollars.		
<i>Manufactures of</i>			
Wool, or of which wool is a component material—			
Not exceeding 50 cents per square yd.	1,267,966	49,679	1,317,645
Exceeding 50 and not exceeding 100 cts. per do. - - - -	2,367,463	38,307	2,405,770
Do. 100 do 250	2,271,283	32,228	2,303,511
do. - - - - -	81,228	4,770	85,998
Do. 400 - - - - -	8,448	70	8,518
Blankets - - - - -	1,121,742	58,736	1,180,478
Hosiery, gloves, mits and bindings	320,999	4,857	325,856
Bombazines - - - - -	461,043	855	461,898
Worsted stuff goods - - - -	3,295,924	96,113	3,392,037
All other manufactures of - -	469,583	21,068	490,651
Cotton—Printed or colored - -	8,983,165	1,063,335	10,046,500
White - - - - -	3,868,722	416,453	4,285,175
Hosiery, gloves, mits and bindings - - - - -	696,154	191,803	887,957
Twist yarn and thread - - -	340,682	52,732	393,414
Nankeens - - - - -	99,523	14,553	114,076
All other manufactures of - -	304,325	58,777	363,102
Silks—from India, piece goods -	1,803,239		1,803,239
Sewing silk, hosiery and other manufactures - - -	53,766		53,766
Other places, piece goods - -	6,122,793	32,941	6,155,739
Sewing silk, hosiery and other manufactures - - -	2,841,026	50,623	2,891,649
Lace—Thread, silk, or cotton -	1,345,391	24,074	1,369,465
Coach - - - - -	5,068		5,068
Flax--Linens, bleached and unbleached	2,461,800	683,997	3,145,797
Checks and stripes - - - -	14,928	3,231	18,159
Other manufactures of - - -	426,696	199,459	626,155
Hemp—Ticklenburgs, osnaburgs and burlaps - - - - -	167,868	346,777	514,645
Sheeting, brown - - - - -	271,614	3,445	275,059
white - - - - -	43,998	32,442	76,440
All other manufactures of - -	74,923	47,086	122,009
Clothing, ready made - - - -	98,322	9,920	108,242
Hats, caps and bonnets—Leghorn, straw, chip, &c.	254,952	941	255,893
Fur, wool, leather or silk - - - - -	64,253	5,893	70,156
Iron, and iron and steel—			
Side arms and fire arms, other than muskets and rifles - -	191,924	22,270	214,194
Drawing knives, axes, adzes, and socket chisels - - - -	28,397	1,786	30,183
Bridle bits of every description	79,658	979	80,637
Steelyards, scale beams and vices - - - - -	65,962	1,647	67,609
Cutting knives, sickles, scythes, reapinghooks, &c. - - - -	106,831	11,912	118,743
Wood screws - - - - -	111,427	1,118	112,545
Other articles not specified	3,559,309	175,701	3,735,010
Copper—Vessels of - - - - -	1,922	6,248	8,170

## STATEMENT—CONTINUED.

All other manufactures of -	41,196	921	42,117
Gold and silver—Lace -	3,290	753	4,043
Watches, and parts thereof -	392,598	53,379	445,977
Articles composed of pearls, &c. -	83,583	1,999	85,582
Glass ware not subject to specific duties -	137,472	93,437	230,909
China or porcelain ware -	103,099	5,070	108,169
Earthen and stone ware -	1,311,953	204,482	1,516,435
Japanned ware -	68,945	2,713	71,658
Plated ware -	186,589	2,830	189,419
Gilt ware -	105,292	137	105,429
Brass -	584,400	46,287	630,687
Tin -	18,772	1,700	20,472
Pewter and lead, except shot -	34,056	787	34,843
Wood, including cabinet wares -	116,695	31,055	147,750
Leather, including saddles, bridles and harness -	799,969	11,282	811,251
Plated saddlery, coach and harness furniture -	94,512		94,512
Marble, and manufactures of -	7,168	579	7,747
Square wire used for umbrella stretchers -	23,890	160	29,050
Cyphering slates -	8,612	5,412	14,024
Prepared quills -	15,847	3,240	19,087
Black lead pencils -	3,471	1,658	5,129
Paper hangings -	88,221	246	88,467
Brushes of all kinds -	16,065	676	16,741
Hair seating -	31,790	4,958	36,748
Bolting cloths -	52,203		52,203
Copper bottoms, cut round, raised to the edge -	20,609		20,609
Quicksilver -	411,079		411,079
Brass in plates -	17,153		17,153
Tin in plates -	459,946	123,471	583,417
Crude saltpetre -	282,115		282,115
Lead ore -			
Opium -	176,736		176,736
Unmanufactured raw silk -	86,428	2,129	88,557
Articles not specially enumerated, subject to duty - at 12½ per cent.	1,217,487	34,833	1,252,320
15 do.	2,746,996	324,305	3,071,301
20 do.	125,013	4,697	129,710
25 do.	71,964	42,931	114,895
30 do.	581,024	52,704	633,728
33½ do.	505	1	506
35 do.	7,525		7,525
40 do.	144	1	145
45 do.	42	30	72
50 do.	4,261	1,230	5,491
Total—dollars	56,693,042	4,836,924	61,534,966

## STATEMENT — CONTINUED.

SPECIES OF MERCHANDISE.	Quantity.	Value.
PAYING SPECIFIC DUTIES.		
Manufactures of wool, not exceeding $33\frac{1}{2}$ cents per square yard, - - sq. yds.	2,598,603	\$695,666
Carpeting — Brussels, Turkey, and Wilton, - do.	127,746	170,718
Venetian and ingrain, - - do.	385,839	249,980
all other of wool, flax, hemp, or cotton, - do.	471	401
Patent printed or stained floor cloths, - do.	20,721	18,962
Oil cloth, other than patent floor cloth, - do.	7,076	2,800
Furniture oil cloth, - - - do.	15,056	3,015
Floor matting, of flags or other materials, - do.	40,574	4,225
Sail duck, - - - do.	1,674,240	470,030
Cotton bagging, - - - do.	207,906	18,966
Wines — Madeira, - - - galls.	114,626	202,027
Sherry, - - - do.	78,905	91,030
Red of France and Spain, - - do.	934,451	227,927
Of France, Spain, and Germany, not enumerated, - - do.	1,888,355	609,591
Of Sicily and other countries, not enumerated, - - do.	663,725	542,483
Foreign spirits, from grain, - - do.	530,550	242,137
other materials, - - do.	1,960,973	795,600
Molasses, - - - do.	17,085,878	2,432,488
Beer, ale, and porter, - - - do.	61,759	57,271
Vinegar, - - - do.	36,543	6,692
Oil — Foreign fishing, spermaceti, - - do.	425	200,408
Whale, - - - do.	456	
Olive, in casks, - - - do.	234,647	
Castor, - - - do.	67	
Linseed, - - - do.	118,556	
Rapeseed, - - - do.	13	1,418,037
Tea — Bohea, - - - lbs.	415,058	
Souchong and other black, - - do.	1,415,445	
Hysonskin and other green, - - do.	436,190	
Hyson and young hyson, - - do.	2,504,125	
Imperial, gunpowder, &c. - - do.	412,049	
Coffee, - - - do.	81,757,386	6,317,666
Cocoa, - - - do.	2,839,445	152,134
Chocolate, - - - do.	5,747	2,444
Sugar — Brown, - - - do.	98,576,928	4,220,993
White, clayed, &c. - - do.	10,437,726	689,884
Candy and loaf, - - - do.	215,739	20,899
Other refined, - - - do.	775	48
Fruits — Almonds, - - - do.	1,189,589	554,307
Currants, - - - do.	233,033	
Prunes and plums, - - - do.	96,948	
Figs, - - - do.	1,251,823	
Raisins, in jars and boxes, - - do.	3,892,696	
other, - - - do.	3,588,050	279,095
Spices — Ginger, - - - do.	1,998	
Cayenne pepper, - - - do.	777	
Mace, - - - do.	1,444	
Nutmegs, - - - do.	13,179	
Cinnamon, - - - do.	21,849	
Cloves, - - - do.	88,358	
Black Pepper, - - - do.	2,060,135	
Pimento, - - - do.	1,524,500	
Cassia, - - - do.	277,008	



## STATEMENT — CONTINUED.

Candles — Spermaceti or wax, - - - - -	lbs.	307	117
Tallow, - - - - -	do.	22,774	1,559
Cheese, - - - - -	do.	59,739	7,277
Soap, - - - - -	do.	163,170	9,640
Tallow, - - - - -	do.	149,667	10,266
Lard, - - - - -	do.	5,778	451
Beef and Pork, - - - - -	do.	335,922	6,690
Bacon, - - - - -	do.	27,757	2,506
Butter, - - - - -	do.	746	104
Saltpetre, - - - - -	do.	240	22
Camphor — crude, - - - - -	do.	68,434	13,705
refined, - - - - -	do.		
Salts — Epsom, - - - - -	do.	131	6
Glauber, - - - - -	do.		
Tobacco, manufactured, other than snuff and cigars, - - - - -	do.	75	24
Snuff, - - - - -	do.	4,075	2,365
Indigo, - - - - -	do.	803,252	759,012
Cotton, - - - - -	do.	345,459	33,475
Gunpowder, - - - - -	do.	72,239	20,043
Bristles, - - - - -	do.	245,486	74,776
Glue, - - - - -	do.	99,796	9,528
Ochre — dry, - - - - -	do.	1,172,195	18,205
in oil, - - - - -	do.	1,184	53
White and red lead, - - - - -	do.	111,178	6,762
Whiting and Paris white, - - - - -	do.	65,590	630
Litharge, - - - - -	do.	233	10
Orange mineral, - - - - -	do.	385	26
Sugar of lead, - - - - -	do.	147,223	16,779
Lead — bar, sheet, and pig, - - - - -	do.	2,108,165	52,120
shot, - - - - -	do.	6,965	290
Cordage — tarred, and cables, - - - - -	do.	684,507	33,522
Untarred, and yarn, - - - - -	do.	105,725	6,344
Twine, packthread and seines, - - - - -	do.	379,716	71,172
Corks, - - - - -	do.	140,918	31,455
Copper rods and bolts, - - - - -	do.	20,379	3,906
Nails and spikes, - - - - -	do.	7,675	1,542
Fire arms — muskets, - - - - -	No.	1,079	2,946
Rifles, - - - - -	do.	18	193
Iron — iron and steel wire, - - - - -	lbs.	608,779	67,718
Tacks, brads, &c. not exceeding 16 oz. per M. - - - - -	M.	27,972	} 4,297
exceeding 16 oz. per M. - - - - -	lbs.	1,905	
Nails, - - - - -	do.	814,748	52,597
Spikes, - - - - -	do.	75,999	3,175
Cables and chains, or parts thereof, - - - - -	do.	1,004,540	51,341
Mill cranks and mill iron, of wrought iron, - - - - -	do.	20	3
Mill saws, - - - - -	No.	5,679	16,160
Anchors, - - - - -	lbs.	54,771	2,287
Anvils, - - - - -	do.	1,253,450	64,064
Hammers and sledges, - - - - -	do.	166,166	4,249
Castings, vessels, and all other, - - - - -	do.	1,174,510	32,143
Braziers' rods, or round iron of 3-16 to 8-16 diameter, - - - - -	do.	487,013	13,660
Nail or spike rods, slit, - - - - -	do.	227,160	4,585
Sheets and hoops, - - - - -	do.	5,672,779	151,909
Slit or rolled, &c. - - - - -	do.	23,234	724
Pig, - - - - -	cwt.	138,967	160,681
Bar and bolt, rolled, - - - - -	do.	344,918	544,664
hammered, - - - - -	lbs.	52,232,192	1,260,166
Steel, - - - - -	cwt.	34,203	399,635
Hemp, - - - - -	do.	51,909	295,706

## STATEMENT — CONTINUED.

Flax, unmanufactured, - - - - -	cwt.	463	6,472
Wool, do. - - - - -	do.	5,622,960	1,288,909
Alum, - - - - -	do.	9	13
Copperas, - - - - -	do.	21	30
Wheat flour, - - - - -	do.	5	14
Salt, - - - - -	bush.	4,182,340	535,138
Coal, - - - - -	do.	1,022,245	108,250
Wheat, - - - - -	do.	620	685
Oats, - - - - -	do.	1,226	333
Potatoes, - - - - -	do.	24,521	7,818
Paper — Folio and quarto post, - - - - -	lbs.	17,357	212,994
Foolscap, &c. - - - - -	do.	1,281,245	
Printing, &c. - - - - -	do.	5,328	
Sheathing, &c. - - - - -	do.	20,423	
All other, - - - - -	do.	45,680	175,049
Books — printed previous to 1775, - - - - -	vols.	3,077	
in other languages than Eng- lish, Latin or Greek, - - - - -	do.	91,158	
in Latin or Greek, - - - - -	lbs.	11,925	
all other, - - - - -	do.	123,660	7,813
Glass ware — cut and not specified, - - - - -	do.	18,344	
All other, - - - - -	do.	749,485	102,075
Glass — Apothecaries' vials, not above 6 oz. and less, - - - - -	groce.	341	1,260
above 6 oz. and not above 8 oz. - - - - -	do.	61	
Bottles, not above a quart, - - - - -	do.	17,875	81,877
exceeding 1 quart and not above 2 quarts, - - - - -	do.	4	
exceeding 2 quarts, and not above 1 gallon, - - - - -	do.	14	17,851
Demijohns, - - - - -	do.	58,157	
Window, not above 8 by 10 inches. 100 sq. ft.		854	59,576
Do. 10 by 12 do. do.		375	
above 10 by 12, and not above 10 by 15 in. - - - - -	do.	685	
Do. 10 by 15, - - - - -	do.	2,691	
Fish — Foreign caught and dried, - - - - -	quint.	1,363	49,421
Pickled salmon, - - - - -	bbl.	2,314	
Mackerel, - - - - -	do.	4,552	
other, - - - - -	do.	454	
Shoes, &c. of silk, - - - - -	pairs.	4,335	11,954
Prunelle, - - - - -	do.	1,291	
Leather for men or women, - - - - -	do.	11,199	
Children's, - - - - -	do.	811	
Boots and bootees, - - - - -	do.	1,455	2,868
Cigars, - - - - -	M.	39,212	433,457
Playing cards, - - - - -	packs.	1,517	118
Roofing slates not exceeding 12 by 6 inches, do. 12 by 14 do.		177	70,349
do. 14 by 16 do.		6,156	
do. 16 by 18 do.		3,071	
do. 18 by 20 do.		703	
do. 20 by 24 do.		6,523	
		1,195	
Total value of merchandise paying specific duties.			28,199,533
Do. do. ad valorem,			61,534,966
Do. do. free of duty,			13,456,625
Total,			\$103,191,124

# EXPORTS.

[37

SUMMARY STATEMENT of Goods, Wares, and Merchandise, of the growth, produce, and manufacture of Foreign Countries, exported; commencing on the 1st of October, 1830, and ending on the 30th September, 1831.

SPECIES OF MERCHANDISE.	EXPORTED.	
	Quantity.	Value.
Specimens of botany . . . . .	.	550
Models of invention and machinery . . . . .	.	325
Antimony, regulus of . . . . .	.	1
Lapis calaminaris, teuteneque, spelter or zinc . . . . .	.	11,235
Burr-stones, unwrought . . . . .	.	325
Brimstone and sulphur . . . . .	.	3,264
Cork tree, bark of . . . . .	.	130
Rags of any kind of cloth . . . . .	.	624
Furs of all kinds . . . . .	.	24,757
Hides and skins, raw . . . . .	.	20,723
Plaster of Paris . . . . .	.	14
Wood, dye . . . . .	.	280,681
unmanufactured, mahogany, and other . . . . .	.	53,910
Pewter, old . . . . .	.	1,232
Tin, in pigs and bars . . . . .	.	3,880
Copper, in pigs and bars . . . . .	.	123,745
in plates suited to the sheathing of ships . . . . .	.	50,990
old, fit only to be remanufactured . . . . .	.	59,817
Bullion, gold . . . . .	.	21,690
silver . . . . .	.	203,572
Specie, gold . . . . .	.	899,365
silver . . . . .	.	5,881,830
All other articles . . . . .	.	6,383
Total dollars . . . . .		7,599,043
MANUFACTURES PAYING DUTIES AD VALOREM.		
Of wool—not exceeding 50 cents per square yard . . . . .	.	15,461
Exceeding 50 and not exceeding 100 cents per square yard . . . . .	.	32,886
Exceeding 100 and not exceeding 250 do. do. . . . .	.	77,151
Exceeding 250 and not exceeding 400 do. do. . . . .	.	47,767
Exceeding 400 . . . . . do. do. . . . .	.	2,794
Blankets . . . . .	.	28,039
Hosiery, gloves, mits and bindings . . . . .	.	371
Hats and caps . . . . .	.	2,193
Bombasins . . . . .	.	4,450
Worsted stuff goods . . . . .	.	49,997
All other, manufactures of . . . . .	.	12,422
Of cotton—Printed and colored . . . . .	.	1,746,442
White . . . . .	.	973,774
Hosiery, gloves, mits and bindings . . . . .	.	57,015
Twist, yarn and thread . . . . .	.	70,254
Nankeens . . . . .	.	237,330
All other manufactures of . . . . .	.	144,043
Of silk—From India, piece goods . . . . .	.	378,868
Sewing silk . . . . .	.	6,475
Hosiery, gloves, mits and bindings . . . . .	.	4,680
Other articles . . . . .	.	28,666
From other places, piece goods . . . . .	.	395,598
Sewing silk . . . . .	.	7,995
Hosiery, gloves, mits & bindings . . . . .	.	24,867
Other articles . . . . .	.	194,471



## STATEMENT—CONTINUED.

Lace, silk	10,133
Thread	8,235
Cotton	15,178
Coach	220
Of flax—Linen, bleached and unbleached	865,913
Checks and stripes	1,132
Other manufactures of	31,357
Of hemp—Ticklenburgs, osnaburgs and burlaps	69,606
Sheeting, brown	236,569
white	36,896
Other manufactures of	12,821
Hats, caps, & bonnets—Of Leghorn, chip, straw, grass, &c.	9,418
Of fur, wool, leather or silk	
Clothing, ready made	7,862
Of Iron, and iron and steel	
Side and fire arms, other than muskets and rifles	17,054
Drawing knives, axes, adzes, and socket chisels	750
Bridle bits, of every description	1,100
Steelyards, scale beams, and vices	20
Cutting knives, sickles, scythes, reaping hooks, spades, and shovels	29,661
Wood screws	486
Other articles not specified	157,692
Of copper—vessels	1,712
All other manufactures of	1,179
Gold and silver lace	6,444
Watches, and parts of	16,675
Articles composed wholly or chiefly of pearls, precious stones, set or otherwise	20,095
Wares—Glass, not subject to specific duties	27,797
China or porcelain	13,175
Earthen and stone	36,828
Plated	4,352
Gilt	12,381
Of Brass	6,556
Tin	1,137
Pewter and lead, except shot	16
Wood, including cabinet wares	1,974
Of leather, including saddles, bridles, and harness	2,965
Marble, and manufactures of	2,594
Prepared quills	1,476
Black lead pencils	2
Paper hangings	6,222
Brushes of all kinds	27
Hair seating	365
Bolting cloths	28
Quicksilver	361,348
Brass in plates	367
Tin in plates	32,814
Crude saltpetre	26,689
Opium	91,390
Raw silk	134,376
Articles not specially enumerated, at 12½ per cent.	314,472
Do do do 15 do	901,246
Do do do 20 do	8,982
Do do do 25 do	21,930
Do do do 30 do	110,445
Do do do 35 do	470
Do do do 45 do	489
Do do do 50 do	8,816
Total dollars	8,233,946

## STATEMENT — CONTINUED.

## MERCHANDISE PAYING SPECIFIC DUTIES.

Manufactures of wool, not exceeding 33½ cents per square yard,	sq. yds.	55,488	19,297
Carpeting — Brussels, Turkey, and Wilton,	do.	2,318	3,769
Venetian and ingrain,	do.	3,050	2,750
Patent painted or stained floor cloths,	do.	448	575
Oil cloth, other than patent floor cloths,	do.		
Furniture oil cloth,	do.	987	492
Floor matting, of flags or other materials,	do.	6,044	2,740
Sail duck,	do.	219,616	65,178
Cotton bagging,	do.	9,472	1,345
Wine — Madeira, in casks,	galls.	19,902	} 22,798
in bottles,	do.	836	
Sherry, in casks,	do.	6,830	2,787
in bottles,	do.		
Red, of France or Spain, in casks,	do.	156,821	54,605
Other, of France or Spain, in casks,	do.	60,842	27,558
Of all other countries, and all wines not enumerated,	do.	75,887	73,879
Spirits — from grain,	do.	20,384	13,232
From other materials,	do.	618,916	313,142
Molasses,	do.	17,695	4,780
Beer, ale, and porter,	do.	9,605	4,782
Vinegar,	do.	2,786	927
Oil — Foreign fishing, spermaceti,	do.	20	} 23,178
Whale, and other fish,	do.	4,037	
Olive, in casks,	do.	19,215	
Castor,	do.	599	
Linseed,	do.	7,946	} 360,509
Teas — Souchong and other black,	lbs.	58,498	
Hysonskin and other green,	do.	125,675	
Hyson and young hyson,	do.	165,540	
Imperial, gunpowder, and gomee,	do.	176,473	} 521,527
Coffee,	do.	6,056,629	
Cocoa,	do.	1,783,003	174,688
Chocolate,	do.	587	359
Sugar — Brown,	do.	17,297,837	886,564
White, clayed, &c.	do.	5,274,579	404,993
Candy and loaf,	do.	4,455	452
Other refined, &c.	do.	4,040	327
Fruits — Almonds,	do.	91,435	} 78,823
Currants,	do.	2,287	
Prunes and plums,	do.	6,860	
Figs,	do.	385,504	
Raisins, in jars, boxes, and muscatel,	do.	423,074	
other,	do.	153,195	} 178,990
Spices — Ginger,	do.	15	
Cayenne pepper,	do.	2,503	
Mace,	do.	100	
Nutmegs,	do.	666	
Cinnamon,	do.	22,860	
Cloves,	do.	28,151	
Black Pepper,	do.	635,850	
Pimento,	do.	682,151	} 5,565
Cassia,	do.	83,710	
Candles — Spermaceti and wax,	do.	12,907	2,302
Tallow,	do.	24,397	3,897
Cheese,	do.	27,562	2,612
Soap,	do.	25,927	97
Tallow,	do.	968	

## STATEMENT — CONTINUED.

Lard,	lbs.	5,758	491
Beef and pork,	do.	441,336	18,237
Bacon,	do.	44	5
Saltpetre,	do.	362,727	30,457
Vitriol,	do.	100	4
Camphor, refined,	do.	98	181
Snuff,	do.	8,231	3,393
Indigo,	do.	238,218	278,997
Cotton,	do.	335,012	27,277
Gunpowder,	do.	11,224	1,990
Ochre, dry,	do.	4,510	111
in oil,	do.	1,046	50
White and red lead,	do.	164,638	11,880
Whiting and Paris white,	do.	469	2
Lead — bar, sheet, and pig,	do.	1,950,066	60,130
Shot,	do.	24,857	2,200
Pipes,	do.	171	10
Cordage — tarred, and cables,	do.	982,527	71,219
Untarred, and yarn,	do.	79,713	5,402
Twine, packthread, and seine,	do.	42,892	6,339
Corks,	do.	15,025	3,630
Copper nails and spikes,	do.	13,621	2,093
Fire arms — Muskets,	No.	8,734	33,695
Iron — Iron and steel wire, not above No. 14,	lbs.	50	31
Tacks, brads, &c, not exceeding 16 oz. per M.	M.	200	29
Nails,	lbs.	39,927	3,203
Cables and chains, or parts thereof,	do.	15,739	1,390
Mill saws,	No.	10	150
Anvils,	lbs.	1,260	483
Castings, vessels, and all other,	do.	20,541	1,983
Nail or spike rods, slit,	do.	133,967	3,004
Sheets and hoops,	do.	161,278	7,148
In pigs,	cwt.	1,633	3,231
Bar and bolt, rolled,	do.	14,854	12,869
hammered,	lbs.	780,440	24,072
Steel,	cwt.	3,088	19,470
Flax, unmanufactured,	do.	933	10,169
Wool, do.	do.	3,607	1,369
Salt,	bush.	55,689	13,353
Coal,	do.	4,329	998
Paper — Folio and quarto post,	lbs.	1,408	136,527
Foolscap, drawing, and writing,	do.	761,233	
Sheathing, binders', wrapping, and box boards,	do.	10,074	
All other,	do.	40,093	8,886
Books — Printed in other language than English,	do.	7,707	
Latin, and Greek,	do.	5,794	
All other,	do.	3,960	1,589
Glass ware — Cut and not specified,	do.	70,367	17,170
All other articles of	do.	100	383
Apothecaries' vials, not above 6 oz.	groce.	20	
above 6 oz. and not above 8 oz.	do.	769	4,574
Bottles, not above 1 quart,	do.	66	
exceeding 1 quart, and not above 2 qts.	do.	17,493	8,953
Demijohns,	No.	5	276
Fish — Salmon,	bbls.	19	
All other,	do.	72	411
Shoes and slippers — Silk,	pairs.	18	
Prunelle and of other stuff,	do.	218	
Leather, morocco, kid, &c. for men and women,	do.		



# EXPORTS.

[41

## STATEMENT—CONTINUED.

Boots and bootees, . . . . .	pairs.	533	1,111
Cigars, . . . . .	M.	8,015	99,230
Playing cards, . . . . .	packs.	1,464	208
Roofing slates, not exceeding 14 by 16 inches, . . . . .	tons.	8	} 965
do. do. 16 by 18 do. . . . .	do.	15	
do. do. 18 by 20 do. . . . .	do.	8	
Total value of merchandise paying specific duties,			4,200,537
Do. do. ad valorem duties,			8,233,946
Do. do. free of duty,			7,599,043
Total — dollars,			20,033,526

## SUMMARY STATEMENT of the value of the Exports of the growth, produce, and manufacture of the United States, during the year ending on the 30th day of September, 1831.

	Dollars.	Dollars.	Dollars.
<b>THE SEA.</b>			
<b>Fisheries—</b>			
Dried fish or cod fisheries - . . . . .	-	625,393	
Pickled fish or river fisheries, herring, shad, salmon, mackerel - . . . . .	-	304,441	
Whale and other fish oil - . . . . .	-	554,440	
Spermaceti oil - . . . . .	-	53,526	
Whalebone - . . . . .	-	133,842	
Spermaceti candles - . . . . .	-	217,830	
			1,889,472
<b>THE FOREST.</b>			
Skins and furs - . . . . .	-	750,938	
Ginseng - . . . . .	-	115,928	
<b>Product of wood—</b>			
Staves, shingles, boards, and hewn timber	1,467,065		
Other lumber - . . . . .	214,105		
Masts and spars - . . . . .	7,806		
Oak bark and other dye - . . . . .	99,116		
All manufactures of wood - . . . . .	275,219		
Naval stores, tar, pitch, rosin, & turpentine	397,687		
Ashes, pot and pearl - . . . . .	935,613		
		3,396,611	
			4,263,477
<b>AGRICULTURE.</b>			
<b>Product of animals—</b>			
Beef, tallow, hides, and horned cattle - . . . . .	829,982		
Butter and cheese - . . . . .	264,796		
Pork, (pickled,) bacon, lard, live hogs	1,501,644		
Horses and mules - . . . . .	218,015		
Sheep - . . . . .	14,499		
		2,828,936	

## STATEMENT—CONTINUED.

Vegetable food—						
Wheat	-	-	-	-	523,270	
Flour	-	-	-	-	9,938,458	
Indian corn	-	-	-	-	396,617	
Indian meal	-	-	-	-	595,434	
Rye meal	-	-	-	-	71,881	
Rye, oats, and other small grain and pulse	-	-	-	-	132,717	
Biscuit or ship bread	-	-	-	-	250,533	
Potatoes	-	-	-	-	41,147	
Apples	-	-	-	-	31,148	
Rice	-	-	-	-	2,016,267	
						13,997,472
						16,826,408
Tobacco	-	-	-	-	-	4,892,388
Cotton	-	-	-	-	-	25,289,492
All other agricultural products—						
Indigo	-	-	-	-	-	
Flax seed	-	-	-	-	-	216,376
Hops	-	-	-	-	-	26,664
Brown sugar	-	-	-	-	-	10,105
						253,145
MANUFACTURES.						
Soap and tallow candles	-	-	-	-	-	643,252
Leather, boots, and shoes	-	-	-	-	-	290,937
Household furniture	-	-	-	-	-	229,231
Coaches and other carriages	-	-	-	-	-	49,490
Hats	-	-	-	-	-	358,013
Saddlery	-	-	-	-	-	39,440
Wax	-	-	-	-	-	114,017
Spirits from grain, beer, ale, and porter	-	-	-	-	-	141,794
Snuff and tobacco	-	-	-	-	-	292,475
Lead	-	-	-	-	-	7,068
Linseed oil, and spirits of turpentine	-	-	-	-	-	54,092
Cordage	-	-	-	-	-	6,109
Iron, pig, bar, and nails	-	-	-	-	-	62,376
castings	-	-	-	-	-	21,827
All manufactures of	-	-	-	-	-	149,438
Spirits from molasses	-	-	-	-	-	34,569
Sugar refined	-	-	-	-	-	215,794
Chocolate	-	-	-	-	-	1,965
Gunpowder	-	-	-	-	-	102,033
Copper and brass	-	-	-	-	-	55,755
Medicinal drugs	-	-	-	-	-	104,760
						2,969,435
Cotton piece goods—						
Printed or colored	-	-	-	-	96,931	
White	-	-	-	-	947,932	
Nankeens	-	-	-	-	2,397	
Twist, yarn, and thread	-	-	-	-	17,221	
All other manufactures of	-	-	-	-	61,832	
						1,126,313
Flax and hemp—						
Cloth and thread	-	-	-	-	-	231
Bags, and all manufactures of	-	-	-	-	-	2,599
Wearing apparel	-	-	-	-	-	59,749
Combs and buttons	-	-	-	-	-	120,217
Brushes	-	-	-	-	-	3,947
Billiard tables and apparatus	-	-	-	-	-	2,343
Umbrellas and parasols	-	-	-	-	-	29,580

## STATEMENT — CONTINUED.

Leather and morocco skins not sold per lb.	-	58,146	
Printing presses and type	-	8,713	
Musical instruments	-	10,906	
Books and maps	-	35,609	
Paper and other stationary	-	55,121	
Paints and varnish	-	22,022	
Vinegar	-	7,178	
Earthen and stone ware	-	7,378	
Fire engines and apparatus	-	5,630	
Manufactures of glass	-	102,736	
tin	-	3,909	
pewter and lead	-	6,422	
marble and stone	-	3,588	
gold and silver, and gold leaf	-	3,464	
Gold and silver coin	-	2,058,474	
Artificial flowers and jewelry	-	11,439	
Molasses	-	948	
Trunks	-	5,326	
Brick and lime	-	4,412	
Salt	-	26,848	
			3,783,248
Articles not enumerated—			
Manufactured	-	394,681	
Other articles	-	715,311	
			1,109,992
			61,277,057





# PUBLIC DOCUMENTS.

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## 1.—DOMESTIC.

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*Message from the President of the United States, to the Twenty-second Congress. — First Session.*

Fellow Citizens of the Senate,  
and House of Representatives,

THE representation of the people has been renewed for the twenty-second time since the constitution they formed has been in force. For near half a century, the chief magistrates, who have been successively chosen, have made their annual communications of the state of the nation to its representatives. Generally, these communications have been of the most gratifying nature, testifying an advance in all the improvements of social, and all the securities of political life. But frequently, and justly, as you have been called on to be grateful for the bounties of Providence, at few periods have they been more abundantly or extensively bestowed than at the present: rarely, if ever, have we had greater reason to congratulate each other on the continued and increasing prosperity of our beloved country.

Agriculture, the first and most important occupation of man, has compensated the labors of the husbandman with plentiful crops of all the varied products of our extensive country. Manufactures have been established, in which the funds of the capitalist find a profitable investment, and which give employment and subsistence to a numerous and increasing body of industrious and dexterous mechanics. The laborer is rewarded by high wages, in the construction of works of internal improvement, which are extending with unprecedented rapidity. Science is steadily penetrating the recesses of nature and disclosing her secrets, while the ingenuity of free minds is subjecting the elements to the power of man, and making each new conquest auxiliary to his comfort. By our mails, whose speed is regularly increased, and whose routes are every year extended,

the communication of public intelligence and private business is rendered frequent and safe—the intercourse between distant cities, which it formerly required weeks to accomplish, is now effected in a few days; and in the construction of rail-roads, and the application of steam power, we have a reasonable prospect that the extreme parts of our country will be so much approximated, and those most isolated by the obstacles of nature rendered so accessible, as to remove an apprehension some times entertained, that the great extent of the Union would endanger its permanent existence.

If, from the satisfactory view of our agriculture, manufactures, and internal improvements, we turn to the state of our navigation and trade with foreign nations and between the States, we shall scarcely find less cause for gratulation. A beneficent Providence has provided, for their exercise and encouragement, an extensive coast indented by capacious bays, noble rivers, inland seas; with a country productive of every material for ship building and every commodity for gainful commerce, and filled with a population, active, intelligent, well informed, and fearless of danger. These advantages are not neglected; and an impulse has lately been given to commercial enterprise, which fills our ship yards with new constructions, encourages all the arts and branches of industry connected with them, crowds the wharves of our cities with vessels, and covers the most distant seas with our canvass.

Let us be grateful for these blessings to the beneficent Being who has conferred them, and who suffers us to indulge a reasonable hope of their continuance and extension, while we neglect not the means by which they may be preserved. If we may dare to judge of His future designs by the manner in which his past favors have been bestowed, he has made our national prosperity to depend on the preservation of our liberties—our national force on our federal union—and our individual happiness on the maintenance of our State rights and wise institutions. If we are prosperous at home, and respected abroad, it is because we are free, united, industrious, and obedient to the laws. While we continue so, we shall, by the blessing of Heaven, go on in the happy career we have begun, and which has brought us, in the short period of our political existence, from a population of three to thirteen millions—from thirteen separate colonies to twenty-four United States—from weakness to strength—from a rank scarcely marked in the scale of Nations to a high place in their respect.

This last advantage is one that has resulted, in a great degree, from the principles which have guided our intercourse with foreign Powers, since we have assumed an equal station among them: and hence, the annual account which the Executive renders to the country, of the manner in which that branch of his duties has been fulfilled, proves instructive and salutary.

The pacific and wise policy

of our Government kept us in a state of neutrality during the wars that have, at different periods since our political existence, been carried on by other powers : but this policy, while it gave activity and extent to our commerce, exposed it in the same proportion to injuries from the belligerent nations. Hence have arisen claims of indemnity for those injuries. England, France, Spain, Holland, Sweden, Denmark, Naples, and lately Portugal, had all in a greater or less degree infringed our neutral rights. Demands for reparation were made upon all. They have had in all, and continue to have in some cases, a leading influence on the nature of our relations with the powers on whom they were made.

Of the claims upon England it is unnecessary to speak, further than to say, that the state of things to which their prosecution and denial gave rise has been succeeded by arrangements, productive of mutual good feeling and amicable relations between the two countries, which it is hoped will not be interrupted. One of these arrangements is that relating to the colonial trade, which was communicated to Congress at the last session ; and although the short period during which it has been in force will not enable me to form an accurate judgment of its operation, there is every reason to believe that it will prove highly beneficial. The trade thereby authorized has employed, to the 30th September last, upwards of 30,000 tons of American, and 15,000 tons of foreign shipping in the outward

voyages ; and, in the inward, nearly an equal amount of American, and 20,000, only, of foreign tonnage. Advantages, too, have resulted to our agricultural interests from the state of the trade between Canada and our Territories and States bordering on the St. Lawrence and the Lakes, which may prove more than equivalent to the loss sustained by the discrimination made to favor the trade of the Northern colonies with the West Indies.

After our transition from the state of colonies to that of an independent nation, many points were found necessary to be settled between us and Great Britain. Among them was the demarcation of boundaries, not described with sufficient precision in the treaty of peace. Some of the lines that divide the States and Territories of the United States from the British provinces, have been definitively fixed. That, however, which separates us from the provinces of Canada and New Brunswick to the north and the east was still in dispute when I came into office. But I found arrangements made for its settlement, over which I had no control. The commissioners who had been appointed under the provisions of the treaty of Ghent, having been unable to agree, a convention was made with Great Britain by my immediate predecessor in office, with the advice and consent of the Senate, by which it was agreed 'that the points of difference which have arisen in the settlement of the boundary line between the American and British dominions, as



described in the 5th article of the Treaty of Ghent, shall be referred, as therein provided, to some friendly sovereign or state, who shall be invited to investigate, and make a decision upon such points of difference:’ and the King of the Netherlands having, by the late President, and his Britannic Majesty, been designated as such friendly sovereign, it became my duty to carry, with good faith, the agreement so made into full effect. For this end I caused all the measures to be taken which were necessary to a full exposition of our case, to the sovereign arbiter; and nominated as Minister Plenipotentiary to his court, a distinguished citizen of the State most interested in the question, and who had been one of the agents previously employed for settling the controversy. On the 10th day of January last, his Majesty the King of the Netherlands delivered to the Plenipotentiaries of the United States, and of Great Britain, his written opinion on the case referred to him. The papers in relation to the subject will be communicated by a special message to the proper branch of the Government, with the perfect confidence that its wisdom will adopt such measures as will secure an amicable settlement of the controversy, without infringing any constitutional right of the States immediately interested.

It affords me satisfaction to inform you that suggestions, made by my direction, to the Charge d’Affaires of His Britannic Majesty to this Government, have had their desired effect in produ-

cing the release of certain American citizens, who were imprisoned for setting up the authority of the State of Maine, at a place in the disputed Territory under the actual jurisdiction of his Britannic Majesty. From this, and the assurances I have received, of the desire of the local authorities to avoid any cause of collision, I have the best hopes that a good understanding will be kept up until it is confirmed by the final disposition of the subject.

The amicable relations which now subsist between the United States and Great Britain, the increasing intercourse between their citizens, and the rapid obliteration of unfriendly prejudices to which former events naturally gave rise, concurred to present this as a fit period for renewing our endeavors to provide against the recurrence of causes of irritation, which, in the event of war between Great Britain and any other power, would inevitably endanger our peace. Animated by the sincerest desire to avoid such a state of things, and peacefully to secure, under all possible circumstances, the rights and honor of the country, I have given such instructions to the Minister lately sent to the Court of London, as will evince that desire; and if met by a correspondent disposition, which we cannot doubt, will put an end to causes of collision, which, without advantage to either, tend to estrange from each other two nations who have every motive to preserve, not only peace, but an intercourse of the most amicable nature.

In my message at the opening of the last session of Congress,

I expressed a confident hope that the justice of our claims upon France, urged as they were with perseverance and signal ability by our minister there, would finally be acknowledged. This hope has been realized. A treaty has been signed which will immediately be laid before the Senate for its approbation ; and which, containing stipulations that require legislative acts, must have the concurrence of both Houses before it can be carried into effect. By it, the French Government engage to pay a sum which, if not quite equal to that which may be found due to our citizens, will yet, it is believed, under all circumstances, be deemed satisfactory by those interested. The offer of a gross sum, instead of the satisfaction of each individual claim, was accepted, because the only alternatives were a rigorous exaction of the whole amount stated to be due on each claim, which might, in some instances, be exaggerated by design, in others overrated through error, and which therefore it would have been both ungracious and unjust to have insisted on, or a settlement by a mixed commission, to which the French negotiators were very averse, and which experience in other cases had shown to be dilatory, and often wholly inadequate to the end. A comparatively small sum is stipulated on our part, to go to the extinction of all claims by French citizens on our Government : and a reduction of duties on our cotton and their wines has been agreed on, as a consideration for the renunciation of an important

claim for commercial privileges, under the construction they gave to the treaty for the cession of Louisiana.

Should this treaty receive the proper sanction, a source of irritation will be stopped, that has, for so many years, in some degree alienated from each other two nations, who from interest, as well as the remembrance of early associations, ought to cherish the most friendly relations : an encouragement will be given for perseverance in the demands of justice, by this new proof, that if steadily pursued, they will be listened to : and admonition will be offered to those Powers, if any, which may be inclined to evade them, that they will never be abandoned. Above all, a just confidence will be inspired in our fellow citizens, that their Government will exert all the powers with which they have invested it, in support of their just claims upon foreign nations ; at the same time that the frank acknowledgment and provision for the payment of those which were addressed to our equity, although unsupported by legal proof, affords a practical illustration of our submission to the Divine rule of doing to others what we desire they should do unto us.

Sweden and Denmark having made compensation for the irregularities committed by their vessels, or in their ports, to the perfect satisfaction of the parties concerned ; and having renewed the Treaties of Commerce entered into with them, our political and commercial relations with those Powers continue to be on the most friendly footing.

With Spain our differences, up to the 22d of February, 1819, were settled by the treaty of Washington of that date; but, at a subsequent period, our commerce with the States, formerly colonies of Spain, on the continent of America, was annoyed and frequently interrupted by her public and private armed ships: they captured many of our vessels prosecuting a lawful commerce, and sold them and their cargoes; and, at one time, to our demands for restoration and indemnity, opposed the allegation, that they were taken in the violation of a blockade of all the ports of those States. This blockade was declaratory only, and the inadequacy of the force to maintain it was so manifest, that this allegation was varied to a charge of trade in contraband of war. This, in its turn, was also found untenable; and the minister, whom I sent with instructions to press for the reparation that was due to our injured fellow-citizens, has transmitted an answer to his demand, by which the captures are declared to have been legal, and are justified, because the independence of the States of America, never having been acknowledged by Spain, she had a right to prohibit trade with them under her old colonial laws. This ground of defence was contradictory, not only to those which had been formerly alleged, but to the uniform practice and established laws of nations, and had been abandoned by Spain herself in the convention which granted indemnity to British subjects for captures made at the same time,

under the same circumstances, and for the same allegations with those of which we complain.

I however indulge the hope that further reflection will lead to other views, and feel confident that when His Catholic Majesty shall be convinced of the justice of the claim, his desire to preserve friendly relations between the two countries, which it is my earnest endeavor to maintain, will induce him to accede to our demand. I have therefore despatched a special messenger with instructions to our Minister to bring the case once more to his consideration; to the end that if, which I cannot bring myself to believe, the same decision, that, cannot but be deemed an unfriendly denial of justice, should be persisted in, the matter may, before your adjournment, be laid before you, the constitutional judges of what is proper to be done when negotiation for redress of injury fails.

The conclusion of a treaty for indemnity with France, seemed to present a favorable opportunity to renew our claims of a similar nature on other powers; and particularly in the case of those upon Naples, more especially as in the course of former negotiations with that power, our failure to induce France to render us justice was used as an argument against us. The desires of the merchants, who were the principal sufferers, have, therefore, been acceded to, and a mission has been instituted for the special purpose of obtaining for them a reparation already too long delayed. This measure having been resolved on, it was put in execution



without waiting for the meeting of Congress, because the state of Europe created an apprehension of events that might have rendered our application ineffectual.

Our demands upon the Government of the Two Sicilies are of a peculiar nature. The injuries on which they are founded, are not denied, nor are the atrocity and perfidy, under which those injuries were perpetrated, attempted to be extenuated. The sole ground on which indemnity has been refused, is the alleged illegality of the tenure by which the monarch who made the seizures, held his crown. This defence, always unfounded in any principle of the law of nations — now universally abandoned, even by those powers upon whom the responsibility, for acts of past rulers, bore the most heavily, will unquestionably be given up by His Sicilian Majesty, whose counsels will receive an impulse from that high sense of honor and regard to justice, which are said to characterize him; and I feel the fullest confidence that the talents of the citizen commissioned for that purpose, will place before him the just claims of our injured citizens in such a light as will enable me, before your adjournment, to announce that they have been adjusted and secured. Precise instructions, to the effect of bringing the negotiation to a speedy issue, have been given, and will be obeyed.

In the late blockade of Terceira, some of the Portuguese fleet captured several of our vessels and committed other excesses, for which reparation was de-

manded; and I was on the point of despatching an armed force, to prevent any recurrence of a similar violence, and protect our citizens in the prosecution of their lawful commerce, when official assurances on which I relied made the sailing of the ships unnecessary. Since that period frequent promises have been made that full indemnity shall be given for the injuries inflicted and the losses sustained. In the performance there has been some, perhaps unavoidable, delay; but I have the fullest confidence that my earnest desire that this business may at once be closed, which our Minister has been instructed strongly to express, will very soon be gratified. I have the better ground for this hope, from the evidence of a friendly disposition which that Government has shown by an actual reduction in the duty on rice, the produce of our Southern States, authorizing the anticipation that this important article of our export will soon be admitted on the same footing with that produced by the most favored nation.

With the other powers of Europe, we have fortunately had no cause of discussions for the redress of injuries. With the Empire of the Russias, our political connexion is of the most friendly, and our commercial of the most liberal kind. We enjoy the advantages of navigation and trade given to the most favored nation; but it has not yet suited their policy, or perhaps has not been found convenient from other considerations, to give stability and reciprocity to those privileges, by a com-



mercial treaty. The ill health of the Minister last year, charged with making a proposition for that arrangement, did not permit him to remain at St. Petersburg; and the attention of that Government, during the whole of the period since his departure, having been occupied by the war in which it was engaged, we have been assured that nothing could have been effected by his presence. A Minister will soon be nominated, as well to effect this important object, as to keep up the relations of amity and good understanding of which we have received so many assurances and proofs from his Imperial Majesty, and the Emperor, his predecessor.

The Treaty with Austria is opening to us an important trade with the hereditary dominions of the Emperor, the value of which has been hitherto little known, and, of course, not sufficiently appreciated. While our commerce finds an entrance into the South of Germany by means of this Treaty, those we have formed with the Hanseatic Towns and Prussia, and others now in negotiation, will open that vast country to the enterprising spirit of our merchants, on the north: a country abounding in all the materials for a mutually beneficial commerce, filled with enlightened and industrious inhabitants, holding an important place in the politics of Europe, and to which we owe so many valuable citizens. The ratification of the Treaty with the Porte was sent to be exchanged by the gentleman appointed our Charge d' Affaires to that Court. Some difficulties occurred on his

arrival; but at the date of his last official despatch, he supposed they had been obviated, and that there was every prospect of the exchange being speedily effected.

This finishes the connected view I have thought it proper to give of our political and commercial relations in Europe. Every effort in my power will be continued to strengthen and extend them by treaties founded on principles of the most perfect reciprocity of interest, neither asking nor conceding any exclusive advantage, but liberating, as far as it lies in my power, the activity and industry of our fellow citizens from the shackles which foreign restrictions may impose.

To China and the East Indies our commerce continues in its usual extent and with increased facilities, which the credit and capital of our merchants afford by substituting bills for payment in specie. A daring outrage having been committed in those seas by the plunder of one of our merchantmen engaged in the pepper trade at a port in Sumatra, and the piratical perpetrators belonging to tribes in such a state of society that the usual course of proceedings between civilized nations could not be pursued, I forthwith despatched a frigate with orders to require immediate satisfaction for the injury, and indemnity to the sufferers.

Few changes have taken place in our connexions with the independent States of America since my last communication to Congress. The ratification of a Commercial Treaty with the United Republics of Mexico, has been for

some time under deliberation in their Congress, but was still undecided at the date of our last despatches. The unhappy civil commotions that have prevailed there were undoubtedly the cause of the delay; but as the Government is now said to be tranquillized, we may hope soon to receive the ratification of the treaty, and an arrangement for the demarcation of the boundaries between us. In the mean time an important trade has been opened, with mutual benefit, from St. Louis, in the state of Missouri, by caravans, to the interior provinces of Mexico. This commerce is protected in its progress through the Indian countries by the troops of the United States, which have been permitted to escort the carivans beyond our boundaries to the settled part of the Mexican Territory.

From Central America, I have received assurances of the most friendly kind, and a gratifying application for our good offices to remove a supposed indisposition towards that Government in a neighboring State: this application was immediately and successfully complied with. They gave us also the pleasing intelligence that differences which had prevailed in their internal affairs, had been peaceably adjusted. Our treaty with this Republic continues to be faithfully observed, and promises a great and beneficial commerce between the two countries: a commerce of the greatest importance, if the magnificent project of a ship canal through the dominions of that State, from the Atlantic to the Pacific Ocean,

now in serious contemplation, shall be executed.

I have great satisfaction in communicating the success which has attended the exertions of our Minister in Colombia, to procure a very considerable reduction in the duties on our flour in that Republic. Indemnity also has been stipulated for injuries received by our merchants from illegal seizures; and renewed assurances are given that the treaty between the two countries shall be faithfully observed.

Chili and Peru seem to be still threatened with civil commotions; and until they shall be settled, disorders may naturally be apprehended, requiring the constant presence of a Naval force in the Pacific Ocean, to protect our fisheries and guard our commerce.

The disturbances that took place in the Empire of Brazil, previously to, and immediately consequent upon, the abdication of the late Emperor, necessarily suspended any effectual application for the redress of some past injuries suffered by our citizens from that Government, while they have been the cause of others, in which all foreigners seem to have participated. Instructions have been given to our Minister there, to press for indemnity due for losses occasioned by these irregularities: and to take care that our fellow citizens shall enjoy all the privileges stipulated in their favor, by the treaty lately made between the two powers, all which, the good intelligence that prevails between our Minister at Rio Janeiro and the Regency, gives us the best reason to expect.

I should have placed Buenos Ayres in the list of South American powers in respect to which nothing of importance affecting us was to be communicated : but for occurrences which have lately taken place at the Falkland Islands, in which the name of that republic has been used to cover with a show of authority, acts injurious to our commerce, and to the property and liberty of our fellow-citizens. In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Ayres. I have therefore given orders for the despatch of an armed vessel, to join our squadron in those seas, and aid in affording all lawful protection to our trade which shall be necessary ; and shall without delay send a Minister to inquire into the nature of the circumstances, and also of the claim, if any, that is set up by that Government to those Islands. In the mean time I submit the case to the consideration of Congress, to the end that they may clothe the Executive with such authority and means as they may deem necessary for providing a force adequate to the complete protection of our fellow citizens fishing and trading in those seas.

This rapid sketch of our foreign relations it is hoped, fellow citizens, may be of some use in so much of your legislation as may bear on that important subject ; while it affords to the country at

large a source of high gratification in the contemplation of our political and commercial connexion with the rest of the world. At peace with all — having subjects of future difference with few, and those susceptible of easy adjustment — extending our commerce gradually on all sides, and on none by any but the most liberal and mutually beneficial means, we may, by the blessing of Providence, hope for all that national prosperity which can be derived from an intercourse with foreign nations, guided by those eternal principles of justice and reciprocal good will, which are binding as well upon States, as the individuals of whom they are composed.

I have great satisfaction in making this statement of our affairs, because the course of our national policy enables me to do it without any indiscreet exposure of what in other governments is usually concealed from the people. Having none but a straight forward open course to pursue — guided by a single principle, that will bear the strongest light — we have happily no political combinations to form, no alliances to entangle us, no complicated interests to consult ; and in subjecting all we have done to the consideration of our citizens, and to the inspection of the world, we give no advantage to other nations, and lay ourselves open to no injury.

It may not be improper to add, that to preserve this state of things, and give confidence to the world in the integrity of our designs, all our consular and diplomatic agents are strictly en-



joined to examine well every cause of complaint preferred by our citizens; and, while they urge with proper earnestness those that are well founded, to countenance none that are unreasonable or unjust, and to enjoin on our merchants and navigators the strictest obedience to the laws of the countries to which they resort, and a course of conduct in their dealings that may support the character of our nation, and render us respected abroad.

Connected with this subject, I must recommend a revisal of our consular laws. Defects and omissions have been discovered in their operation that ought to be remedied and supplied. For your further information on this subject I have directed a report to be made by the Secretary of State, which I shall hereafter submit to your consideration.

The internal peace and security of our confederated States is the next principal object of the General Government. Time and experience have proved that the abode of the native Indian within their limits is dangerous to their peace, and injurious to himself. In accordance with my recommendation at a former session of Congress, an appropriation of half a million of dollars was made to aid the voluntary removal of the various tribes beyond the limits of the States. At the last session, I had the happiness to announce that the Chickasaws and Choctaws had accepted the generous offer of the Government, and agreed to remove beyond the Mississippi river, by which the

whole of the State of Mississippi and the western part of Alabama will be freed from Indian occupancy, and opened to a civilized population. The treaties with these tribes are in a course of execution, and their removal, it is hoped, will be completed in the course of 1832.

At the request of the authorities of Georgia, the registration of Cherokee Indians for emigration has been resumed, and it is confidently expected that one half, if not two thirds of that tribe, will follow the wise example of their more westerly brethren. Those who prefer remaining at their present homes will hereafter be governed by the laws of Georgia, as all her citizens are, and cease to be the objects of peculiar care on the part of the General Government.

During the present year, the attention of the Government has been particularly directed to those tribes in the powerful and growing State of Ohio, where considerable tracts of the finest lands were still occupied by the aboriginal proprietors. Treaties, either absolute or conditional, have been made, extinguishing the whole Indian title to the reservations in that State; and the time is not distant, it is hoped, when Ohio will be no longer embarrassed with the Indian population. The same measure will be extended to Indiana, as soon as there is reason to anticipate success.

It is confidently believed that perseverance for a few years in the present policy of the Government, will extinguish the Indian title to



all lands lying within the States composing our Federal Union, and remove beyond their limits every Indian who is not willing to submit to their laws. Thus will all conflicting claims to jurisdiction between the States and the Indian tribes be put to rest. It is pleasing to reflect that results so beneficial, not only to the States immediately concerned, but to the harmony of the Union, will have been accomplished by measures equally advantageous to the Indians. What the native savages become when surrounded by a dense population, and by mixing with the whites, may be seen in the miserable remnants of a few eastern tribes, deprived of political and civil rights, forbidden to make contracts and subjected to guardians, dragging out a wretched existence, without excitement, without hope, and almost without thought.

But the removal of the Indians beyond the limits and jurisdiction of the States does not place them beyond the reach of philanthropic aid and Christian instruction. On the contrary, those whom philanthropy or religion may induce to live among them in their new abode, will be more free in the exercise of their benevolent functions, than if they had remained within the limits of the States, embarrassed by their internal regulations. Now, subject to no control but the superintending agency of the General Government, exercised with the sole view of preserving peace, they may proceed unmolested in the interesting experiment of gradu-

ally advancing a community of American Indians from barbarism to the habits and enjoyments of civilized life.

Among the happiest effects of the improved relations of our republic, has been an increase of trade, producing a corresponding increase of revenue, beyond the most sanguine anticipations of the Treasury Department.

The state of the public finances will be fully shown by the Secretary of the Treasury, in the report which he will presently lay before you. I will here however congratulate you upon their prosperous condition. The revenue received in the present year will not fall short of twenty-seven millions seven hundred thousand dollars; and the expenditures for all objects other than the public debt, will not exceed fourteen millions seven hundred thousand. The payment on account of the principal and interest of the debt, during the year, will exceed sixteen millions and a half of dollars; a greater sum than has been applied to that object, out of the revenue, in any year since the enlargement of the sinking fund, except the two years following immediately thereafter. The amount which will have been applied to the public debt from the fourth of March, 1829, to the first of January next, which is less than three years since the administration has been placed in my hands, will exceed forty millions of dollars.

From the large importations of the present year, it may be safely estimated that the revenue which will be received into the Treas-

ry from that source during the next year, with the aid of that received from the public lands, will considerably exceed the amount of the receipts of the present year; and it is believed that with the means which the Government will have at its disposal, from various sources, which will be fully stated by the proper Department, the whole of the public debt may be extinguished, either by redemption or purchase, within the four years of my administration. We shall then exhibit the rare example of a great nation, abounding in all the means of happiness and security, altogether free from Debt.

The confidence with which the extinguishment of the public debt may be anticipated, presents an opportunity for carrying into effect more fully the policy in relation to import duties, which has been recommended in my former messages. A modification of the Tariff, which shall produce a reduction of our revenue to the wants of the Government, and an adjustment of the duties on imports with a view to equal justice in relation to all our national interests, and to the counteraction of fereign policy, so far as it may be injurious to those interests, is deemed to be one of the principal objects which demand the consideration of the present Congress. Justice to the interests of the merchant as well as the manufacturer, requires that material reductions in the import duties be prospective: and unless the present Congress shall dispose of the subject, the proposed reductions cannot properly be made to take

effect at the period when the necessity for the revenue arising from present rates shall cease. It is therefore desirable, that arrangements be adopted at your present session, to relieve the people from unnecessary taxation, after the extinguishment of the public debt. In the exercise of that spirit of concession and conciliation which has distinguished the friends of our Union in all great emergencies, it is believed that this object may be effected without injury to any national interest.

In my annual message of December, 1829, I had the honor to recommend the adoption of a more liberal policy than that which then prevailed towards unfortunate debtors to the Government; and I deem it my duty again to invite your attention to this subject.

Actuated by similar views, Congress, at their last session, passed an act for the relief of certain insolvent debtors of the United States; but the provisions of that law have not been deemed such as were adequate to that relief to this unfortunate class of our fellow citizens, which may be safely extended to them. The points in which the law appears to be defective will be particularly communicated by the Secretary of the Treasury; and I take pleasure in recommending such an extension of its provisions as will unfetter the enterprise of a valuable portion of our citizens, and restore to them the means of usefulness to themselves and the community. While deliberating upon this subject, I would also recommend to your consideration,

the propriety of so modifying the laws for enforcing the payment of debts due either to the public or to individuals suing in the courts of the United States, as to restrict the imprisonment of the person to cases of fraudulent concealment of property. The personal liberty of the citizen seems too sacred to be held, as in many cases it now is, at the will of a creditor to whom he is willing to surrender all the means he has of discharging his debt.

The reports from the Secretaries of the War and Navy Departments, and from the Postmaster General, which accompany this message, present satisfactory views of the operations of the Departments respectively under their charge; and suggest improvements which are worthy of, and to which I invite the serious attention of Congress. Certain defects and omissions having been discovered in the operation of the laws respecting Patents, they are pointed out in the accompanying report from the Secretary of State.

I have heretofore recommended amendments of the Federal Constitution giving the election of President and Vice President to the people, and limiting the service of the former to a single term. So important do I consider these changes in our fundamental law, that I cannot, in accordance with my sense of duty, omit to press them upon the consideration of a new Congress. For my views more at large, as well in relation to these points as to the disqualification of members of Congress to receive an office from a President in whose

election they have had an official agency, which I proposed as a substitute, I refer you to my former messages.

Our system of public accounts is extremely complicated, and it is believed, may be much improved. Much of the present machinery, and a considerable portion of the expenditure of public money may be dispensed with, while greater facilities can be afforded to the liquidation of claims upon the Government, and an examination into their justice and legality, quite as efficient as the present, secured. With a view to a general reform in the system, I recommend the subject to the attention of Congress.

I deem it my duty again to call your attention to the condition of the District of Columbia. It was doubtless wise in the framers of our Constitution, to place the people of this District under the jurisdiction of the General Government; but, to accomplish the objects they had in view, it is not necessary that this people should be deprived of all the privileges of self-government. Independently of the difficulty of inducing the Representatives of distant States to turn their attention to projects of laws which are not of the highest interest to their constituents, they are not individually, nor in Congress collectively, well qualified to legislate over the local concerns of this District. Consequently, its interest are much neglected, and the people are almost afraid to present their grievances, lest a body, in which they are not represented, and which feels little sympathy in their



local relations, should, in its attempt to make laws for them, do more harm than good. Governed by the laws of the States whence they were severed, the two shores of the Potomac within the ten miles square have different penal codes: not the present codes of Virginia and Maryland, but such as existed in those States at the time of the cession to the United States. As Congress will not form a new code, and as the people of the District cannot make one for themselves, they are virtually under two Governments. Is it not just to allow them at least a delegate in Congress, if not a local Legislature to make laws for the District, subject to the approval or rejection of Congress? I earnestly recommend the extension to them of every political right which their interests require, and which may be compatible with the Constitution.

The extension of the Judiciary system of the United States is deemed to be one of the duties of Government. One fourth of the States in the Union do not participate in the benefits of a Circuit Court. To the States of Indiana, Illinois, Missouri, Alabama, Mississippi, and Louisiana, admitted into the Union since the present Judicial system was organized, only a District Court has been allowed. If this be sufficient, then the Circuit Courts, already existing in eighteen States, ought to be abolished: if it be not sufficient, the defect ought

to be remedied, and these States placed on the same footing with the other members of the Union. It was on this condition, and on this footing, that they entered the Union; and they may demand Circuit Courts as a matter, not of concession, but of right. I trust that Congress will not adjourn, leaving this anomaly in our system.

Entertaining the opinions heretofore expressed in relation to the Bank of the United States, as at present organized, I felt it my duty, in my former messages, frankly to disclose them, in order that the attention of the legislature and the people should be seasonably directed to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the Constitution and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper, on this occasion, without a more particular reference to the views of the subject then expressed, to leave it for the present to the investigation of an enlightened people and their representatives.

In conclusion, permit me to invoke that Power which superintends all Governments, to infuse into your deliberations, at this important crisis of our history, a spirit of mutual forbearance and conciliation. In that spirit was our Union formed, and in that spirit must it be preserved.

ANDREW JACKSON.



## BANK OF THE UNITED STATES.

[THE VETO.]

*Message from the President of the United States, returning the Bank bill, with his objections, &c.*

To the Senate.

THE bill to 'modify and continue' the act entitled 'an act to incorporate the subscribers to the bank of the United States,' was presented to me on the 4th of July instant. Having considered it with that solemn regard to the principles of the constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the senate in which it originated, with my objections.

A bank of the United States is, in many respects, convenient for the government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorised by the constitution, subversive of the rights of the states, and dangerous to the liberties of the people, I felt it my duty, at an early period of my administration, to call the attention of congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that, in the act before me, I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the constitution of our country.

The present corporate body, denominated the president, directors and company of the bank of the United States, will have existed, at the time this act is intended to take effect, twenty years. It enjoys an exclusive privilege of banking under the authority of the general government, a monopoly of its favor and support, and, as a necessary consequence, almost a monopoly of the foreign and domestic exchange. The powers, privileges and favors bestowed upon it, in the original charter, by increasing the value of the stock far above its par value, operated as a gratuity of many millions to the stockholders.

An apology may be found for the failure to guard against this result, in the consideration that the effect of the original act of incorporation could not be certainly foreseen at the time of its passage. The act before me proposes another gratuity to the holders of the same stock, and, in many cases to the same men, of at least seven millions more. This donation finds no apology in any uncertainty as to the effect of the act. On all hands it is conceded that its passage will increase at least twenty or thirty per cent. more, the market price of the stock, subject to the payment of the annuity of \$200,000 per year, secured by the act; thus adding, in a mo-

ment, one fourth to its par value. It is not our own citizens only who are to receive the bounty of our government. More than eight millions of the stock of this bank are held by foreigners. By this act the American republic proposes virtually to make them a present of some millions of dollars. For these gratuities to foreigners, and to some of our own opulent citizens, the act secures no equivalent whatever. They are the certain gains of the present stockholders under the operation of this act, after making full allowance for the payment of the bonus.

Every monopoly, and all exclusive privileges, are granted at the expense of the public, which ought to receive a fair equivalent. The many millions which this act proposes to bestow on the stockholders of the existing bank, must come, directly or indirectly, out of the earnings of the American people. It is due to them, therefore, if their government sell monopolies and exclusive privileges, that they should at least exact for them as much as they are worth in open market. The value of the monopoly in this case may be correctly ascertained. The twenty-eight millions of stock would probably be at an advance of fifty per cent. and command in market at least forty-two millions of dollars, subject to the payment of the present bonus. The present value of the monopoly, therefore, is seventeen millions of dollars, and this the act proposes to sell for three millions, payable in fifteen annual instalments of \$200,000 each.

It is not conceivable how the

present stockholders can have any claim to the special favor of the government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the government sell out the whole stock, and thus secure to the people the full market value of the privileges granted? Why should not congress create and sell twenty-eight millions of stock, incorporating the purchasers with all the powers and privileges secured in this act, and putting the premium upon the sales into the treasury?

But this act does not permit competition in the purchase of this monopoly. It seems to be predicated on the erroneous idea, that the present stockholders have a prescriptive right, not only to the favor but to the bounty of government. It appears that more than a fourth part of the stock is held by foreigners, and the residue is held by a few hundred of our own citizens, chiefly of the richest class: for their benefit does this act exclude the whole American people from competition in the purchase of this monopoly, and dispose of it for many millions less than it is worth. This seems the less excusable, because some of our citizens, not now stockholders, petitioned that the door of competition might be opened, and offered to take a charter on terms much more favorable to the government and country.

But this proposition, although made by men whose aggregate wealth is believed to be equal to all the private stock in the exist-

ing bank, has been set aside, and the bounty of our government is proposed to be again bestowed on the few who have been fortunate enough to secure the stock, and, at this moment, wield the power of the existing institution. I cannot perceive the justice or policy of this course. If our government must sell monopolies, it would seem to be its duty to take nothing less than their full value ; and if gratuities must be made once in fifteen or twenty years, let them not be bestowed on the subjects of a foreign government, nor upon a designated and favored class of men in our own country. It is but justice and good policy, as far as the nature of the case will admit, to confine our favors to our own fellow citizens, and let each in his turn enjoy an opportunity to profit by our bounty. In the hearings of the act before me upon these points, I find ample reasons why it should not become a law.

It has been urged as an argument in favor of re-chartering the present bank, that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns, is ample, and if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But, will there ever be a time when this reason will be less powerful ? To acknowledge its force, is to admit that the bank ought to

be perpetual, and as a consequence, the present stockholders and those inheriting their rights, as successors, be established a privileged order, clothed both with great political power, and enjoying immense pecuniary advantages from their connection with the government.

The modifications of the existing charter, proposed by this act, are not such, in my view, as make it consistent with the rights of the states, or the liberties of the people. The qualification of the right of the bank to hold real estate, the limitation of its power to establish branches, and the power reserved to congress to forbid the circulation of small notes, are restrictions comparatively of little value or importance. All the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation.

The fourth section provides ‘ that the notes or bills of the said corporation, although the same be on the faces thereof, respectively made payable at one place only, shall, nevertheless, be received by the said corporation at the bank, or at any of the offices of discount and deposit thereof, if tendered in liquidation or payment of any balance or balances, due to said corporation or to such office of discount and deposit from any other incorporated bank.’ This provision secures to the state banks a legal privilege in the bank of the United States, which is withheld from all private citizens. If a state bank in Philadelphia, owe the bank of the United States and have notes issued by the St



Louis branch, it can pay the debt with those notes; but if a merchant, mechanic, or other private citizen be in like circumstances, he cannot by law pay his debt with those notes, but must sell them at a discount, or send them to St Louis to be cashed. This boon, conceded to the state banks, though not unjust in itself, is most odious, because it does not measure out equal justice to the high and the low, the rich and the poor.

To the extent of its practical effect, it is a bond of union among the banking establishments of the nation, erecting them into an interest, separate from that of the people, and its necessary tendency is to unite the bank of the United States and the state banks in any measure which may be thought conducive to their common interest.

The ninth section of the act recognises principles of worse tendency than any provision of the present charter.

It enacts that 'the cashier of the bank shall annually report to the secretary of the treasury the names of all stockholders who are not resident citizens of the United States, and on the application of the treasurer of any state, shall make out and transmit to such treasurer a list of stockholders residing in, or citizens of such state, with the amount of stock owned by each.' Although this provision, taken in connection with a decision of the supreme court, surrenders by its silence, the right of the states to tax the banking institutions created by this corporation, under the name of branches, throughout the union, — it is

evidently intended to be construed as a concession of their right to tax that portion of the stock which may be held by their own citizens and residents. In this light, if the act become a law, it will be understood by the states, who will probably proceed to levy a tax equal to that paid upon the stock of banks incorporated by themselves. In some states that tax is now one per cent., either on the capital or on the shares, and that may be assumed as the amount which all citizens or resident stockholders will be taxed under the operation of this act. As it is only the stock *held* in the states, and not that *employed* within them, which would be subject to taxation; and as the names of foreign stockholders are not to be reported to the treasurers of the states, it is obvious that the stock held by them will be exempt from this burden. Their annual profits, will, therefore, be one per cent more than the citizen stockholders, and as the annual dividends of the bank may be safely estimated at seven per cent, the stock will be worth ten or fifteen per cent more to foreigners than to citizens of the United States. To appreciate the effects which this state of things will produce, we must take a brief review of the operations and present condition of the bank of the United States.

By documents submitted to congress at the present session, it appears that on the 1st of January, 1832, of the 28 millions of private stock in the corporation, \$8,405,500 were held by foreigners, mostly of Great Britain. The



amount of stock held in nine western and southwestern states, is \$140,200; and in the four southern states, is \$5,623,100; and in the middle and eastern states, is about \$13,522,000. The profits of the bank in 1831, as shown in a statement to congress, were about \$3,455,598; of this there accrued in the nine western states, about \$1,640,048; in the four southern states, about \$352,507; and in the middle and eastern states, about \$1,463,041. As little stock is held in the west, it is obvious that the debt of the people, in that section, to the bank, is principally a debt to the eastern and foreign stockholders; that the interest they pay upon it, is carried into the eastern states and into Europe; and that it is a burden upon their industry and a drain of their currency, which no country can bear without inconvenience and occasional distress. To meet this burden, and equalize the exchange operations of the bank, the amount of specie drawn from those states through its branches within the last two years, as shown by its official reports, was about \$6,000,000. More than half a million of this amount does not stop in the eastern states, but passes on to Europe to pay the dividends of the foreign stockholders. In the principle of taxation recognised by this act, the western states find no adequate compensation for this perpetual burden on their industry, and drain of their currency. The branch bank at Mobile made, last year, \$95,140; yet, under the provisions of this act, the

state of Alabama can raise no revenue from these profitable operations, because not a share of the stock is held by any of her citizens. Mississippi and Missouri are in the same condition in relation to the branches at Natchez and St Louis; and such, in a greater or less degree, is the condition of every western state.

The tendency of the plan of taxation which this act proposes, will be to place the whole United States in the same relation to foreign countries, which the western states now bear to the eastern. When by a tax on resident stockholders, the stock of this bank is made worth ten or fifteen per cent more to foreigners than to residents most of it will inevitably leave the country.

Thus will this provision, in its practical effect, deprive the eastern, as well as the southern and western states, of the means of raising a revenue from the extension of business, and great profits of this institution. It will make the American people debtors to aliens in nearly the whole amount due to this bank, and send across the Atlantic from two to five millions of specie every year to pay the bank dividends.

In another of its bearings this provision is fraught with danger. Of the twentyfive directors of this bank, five are chosen by the government, and twenty by the citizen stockholders. From all voice in these elections, the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders, the extent of suffrage in the choice of directors is

curtailed. Already is almost a third of the stock in foreign hands, and not represented in elections. It is constantly passing out of the country, and this act will accelerate its departure. The entire control of the institution would necessarily fall into the hands of the few citizen stockholders, and the ease with which the object would be accomplished, would be a temptation to designing men to secure that control in their own hands by monopolizing the remaining stock. There is danger that a president and directors would then be able to elect themselves from year to year, and, without responsibility or control, manage the whole concerns of the bank during the existence of its charter. It is easy to conceive that great evils to our country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank, that in its nature has so little to bind it to our country? The president of the bank has told us, that most of the state banks exist by its forbearance. Should its influence become concentrated, as it may, under the operation of such an act as this in the hands of a self-elected directory, whose interests are identified with those of the foreign stockholder, will there not be a cause to tremble for the purity of our elections in peace, and for the independence of our country in war? Their power would be great whenever they might choose to exert it; but if this monopoly were regularly renewed every fifteen or twenty

years, on terms proposed by themselves, they might seldom in peace, put forth their strength to influence elections or control the affairs of the nation. But, if any private citizen, or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it cannot be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? Of the course which would be pursued by a bank almost wholly owned by the subjects of a foreign power, and managed by those whose interests, if not affections, would run in the same direction, there can be no doubt. All its operations within, would be in aid of the hostile fleets and armies without; controlling our currency, receiving our public moneys, and holding thousands of our citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy, and every impulse of American feeling, admonishes that it should be *purely American*. Its stockholders should be composed exclusively of our own citizens, who, at least, ought to be friendly to our government, and willing to support it in times of difficulty and danger. So abundant is domestic capital, that competition, in subscribing for the stock of local

banks, has recently led almost to riots. To a bank, exclusively of American stockholders, possessing the powers and privileges granted by this act, subscriptions for two hundred millions of dollars, could be readily obtained. Instead of sending abroad the stock of the bank, in which the government must deposit its funds, and on which it must rely to sustain its credit in times of emergency, it would rather seem to be expedient to prohibit its sale to aliens under penalty of absolute forfeiture.

It is maintained by the advocates of the bank, that its constitutionality in all its features ought to be considered as settled by precedent, and by the decision of the supreme court. To this conclusion, I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the states can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One congress in 1791 decided in favor of a bank; another in 1811 decided against it. One congress in 1815, decided against a bank, another in 1816 decided in its favor. Prior to the present congress, therefore, the precedents drawn from that source were equal. If we resort to the states, the expressions of legislative, judicial and executive opinions against the bank, have been probably to those in its favor as four to one. There is nothing in

precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the supreme court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this government. The congress, the executive and the court, must each for itself, be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the house of representatives, of the senate, and of the president to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over congress than the opinion of congress has over the judges, and on that point the president is independent of both. The authority of the supreme court must not, therefore, be permitted to control the congress or the executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But in the case relied upon, the supreme court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by congress. But, taking into view the



whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means of carrying into effect the enumerated powers of the general government, therefore, the law incorporating it, is in accordance with that provision of the constitution which declares that congress shall have power 'to make all laws which shall be necessary and proper for carrying those powers into execution.' Having satisfied themselves, that the word '*necessary*' in the constitution, means '*needful*,' '*requisite*,' '*essential*,' '*conducive to*,' and that 'a bank' is a convenient, a useful and essential instrument in the prosecution of the government's 'fiscal operations,' they conclude, that to 'use one must be within the discretion of congress,' and that 'the act to incorporate the bank of the United States is a law made in pursuance of the constitution :' 'but,' say they '*where the law is not prohibited and is really calculated to effect any of the objects entrusted to the government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department and to tread on legislative ground.*'

The principle here affirmed is that 'the degree of its necessity,' involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional ; but it is the province of the legislature to determine whether this or that particular power, privilege

or exemption, is 'necessary and proper' to enable the bank to discharge its duties to the government, and from their decision there is no appeal to the courts of justice. Under the decision of the supreme court, therefore, it is the exclusive province of congress and the president to decide, whether the particular features of this act are 'necessary and proper,' in order to enable the bank to perform conveniently and efficiently the public duties assigned to it as a fiscal agent, and therefore constitutional, or *unnecessary and improper*, and therefore unconstitutional.

Without commenting on the general principle affirmed by the supreme court, let us examine the details of this act in accordance with the rule of legislative action which they have laid down. It will be found that many of the powers and privileges conferred on it, cannot be supposed necessary for the purpose for which it is proposed to be created, and are not therefore means necessary to attain the end in view, and consequently not justified by the constitution.

The original act of corporation, section 21, enacts 'that no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged, *Provided*, congress may renew existing charters for banks within the District of Columbia, not increasing the capital thereof, and may also establish any other bank or banks in said district, with capitals not ex-



ceeding in the whole six millions of dollars, if they shall deem it expedient.' This provision is continued in force, by the act before me, fifteen years from the third of March, 1836.

If congress possessed the power to establish one bank, they had power to establish more than one, if, in their opinion, two or more banks, had been 'necessary' to facilitate the execution of the powers delegated to them in the constitution. If they possessed the power to establish a second bank, it was a power derived from the constitution, to be exercised from time to time, and at any time when the interest of the country or the emergencies of the government might make it expedient. It was possessed by one congress as well as another, and by all congresses alike, and alike at every session. But the congress of 1816 has taken it away from their successors for twenty years, and the congress of 1832 proposes to abolish it for fifteen years more. It cannot be '*necessary*' or '*proper*' for congress to barter away or divest themselves of any of the powers, vested in them by the constitution, to be exercised for the public good. It is not '*necessary*' to the efficiency of the bank, nor is it '*proper*' in relation to themselves and their successors. They may *properly* use the discretion vested in them; but they may not limit the discretion of their successors. This restriction on themselves and grant of a monopoly on the bank, is therefore, unconstitutional.

In another point of view, this provision is a palpable attempt to

amend the constitution by an act of legislation. The constitution declares that the 'congress shall have power to exercise exclusive legislation, in all cases whatsoever' over the District of Columbia. Its constitutional power, therefore, to establish banks in the District of Columbia, and increase their capital at will, is unlimited and uncontrollable by any other power than that which gave authority to the constitution. Yet this act declares that congress shall *not* increase the capital of existing banks, nor create other banks with capitals exceeding in the whole six millions of dollars. The constitution declares that congress *shall* have power to exercise exclusive legislation over this district, '*in all cases whatsoever*;' and this act declares they *shall not*. Which is the supreme law of the land? This provision cannot be '*necessary*,' or '*proper*' or *constitutional*, unless the absurdity be admitted, that whenever it be '*necessary and proper*' in the opinion of congress, they have a right to barter away one portion of the powers vested in them by the constitution as a means of executing the rest.

On two subjects only does the constitution recognise in congress the power to grant exclusive privileges or monopolies. It declares that 'congress shall have power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.' Out of this express delegation of power, have grown our laws of patents and copy-

rights. As the constitution expressly delegates to congress the power to grant exclusive privileges in these cases as the means of executing the substantive power 'to promote the progress of science and useful arts,' it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of congressional power, there is an ever living discretion in the use of proper means which cannot be restricted or abolished without an amendment of the constitution. Every act of congress, therefore, which attempts by grants of monopolies, or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the constitution, and palpably unconstitutional.

This act authorises and encourages transfers of its stock to foreigners, and grants them an exemption from all state and national taxation. So far from being '*necessary and proper*' that the bank should possess this power, to make it a safe and efficient agent of the government in its fiscal operations, it is calculated to convert the bank of the United States into a foreign bank, to impoverish our people in time of peace, to disseminate a foreign influence through every section of the republic — and in war, to endanger our independence.

The several states reserved the power at the formation of the constitution, to regulate and control titles and transfers of real property, and most, if not all of them, have laws disqualifying aliens from acquiring or holding lands within their limits. But this act, in disregard of the undoubted right of the states to prescribe such qualifications, gives to aliens, stockholders in this bank, an interest and title, as members of the corporation, to all the real property it may acquire within any of the states of this union. This privilege granted to aliens is not '*necessary*,' to enable the bank to perform its public duties, nor in any sense '*proper*,' because it is virtually subversive of the rights of the states.

The government of the United States have no constitutional power to purchase lands within the states, except 'for the erection of forts, magazines, arsenals, dockyards, and other needful buildings,' and even for these objects only 'by the consent of the legislature of the state in which the same shall be.' By making themselves stockholders in the bank, and granting to the corporation the power to purchase lands for other purposes, they assume a power not granted in the constitution, and grant to others what they do not themselves possess. It is not *necessary* to the receiving, safe keeping, or transmission of the funds of the government, that the bank should possess this power, and it is not *proper* that congress should thus enlarge the powers delegated to them in the constitution.

The old bank of the United States possessed a capital of only eleven millions of dollars, which was found fully sufficient to enable it, with despatch and safety, to perform all the functions required of it by the government. The capital of the present bank is thirtyfive millions of dollars, at least twentyfour more than experience has proved to be *necessary* to enable a bank to perform its public functions. The public debt which existed during the period of the old bank, and on the establishment of the new, has been nearly paid off, and our revenue will soon be reduced. This increase of capital is, therefore, not for public, but for private purposes.

The government is the only '*proper*' judge where its agents should reside and keep their offices because it best knows where their presence will be '*necessary*.' It cannot, therefore, be '*necessary*,' or '*proper*' to authorize the bank, to locate branches where it pleases, to perform the public service, without consulting the government, and contrary to its will. The principle laid down by the supreme court concedes, that congress cannot establish a bank for purposes of private speculation and gain, but only as a means of executing the delegated powers of the general government. By the same principle, a branch bank cannot constitutionally be established for other than public purposes. The power which this act gives to establish two branches in any state without the injunction or request of the government, and for other than public purposes is

not '*necessary*' to the due *execution* of the powers delegated to congress.

The bonus which is exacted from the bank is a confession upon the face of the act, that the powers granted by it are greater than are '*necessary*' to its character of a fiscal agent. The government does not tax its officers and agents for the privilege of serving it. The bonus of a million and a half, required by the original charter, and that of three millions proposed by this act, are not exacted for the privilege of giving 'the necessary facilities for transferring the public funds from place to place, within the United States, or the territories thereof, and for distributing the same in payment of the public creditors, without charging commission or claiming allowance on account of the difference of exchange, as required by the act of incorporation, but for something more beneficial to the stockholders.

The original act declares, that it, (the bonus), is granted 'in consideration of the exclusive privileges and benefits conferred by this act upon the said bank,' and the act before me declares it to be 'in consideration of the exclusive benefits and privileges continued by this act to the said corporation for fifteen years as aforesaid.' It is, therefore, for 'exclusive privileges and benefits' conferred for their own use and emolument, and not for the advantage of the government, that a bonus is exacted. These surplus powers, for which the bank is required to pay, cannot surely be '*necessary*' to make it the fiscal



agent of the treasury. If they were, the exaction of a bonus for them would not be '*proper*.'

It is maintained by some that the bank is a means of executing the constitutional power 'to coin money and regulate the value thereof.' Congress have established a mint to coin money, and passed laws to regulate the value thereof. The money so coined, with its value so regulated, and such foreign coins as congress may adopt, are the only currency known to the constitution. But if they have other power to regulate the currency, it was conferred to be exercised by themselves and not to be transferred to a corporation. If the bank be established for that purpose, with a charter unalterable, without its consent, congress have parted with their power for a term of years, during which the constitution is a dead letter. It is neither necessary nor proper to transfer its legislative powers to such a bank, and therefore unconstitutional.

By its silence, considered in connexion with the decision of the supreme court in the case of *McCulloch* against the state of Maryland, this act takes from the states the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against federal encroachments. Banking, like farming, manufacturing, or any other occupation or profession, is a *business*, the right to follow which is not originally derived from the laws. Every citizen and every company of citizens in

all of our states, possessed the right until the state legislatures deemed it good policy to prohibit private banking by law. If the prohibitory state laws were now repealed, every citizen would again possess the right. The state banks are a qualified restoration of the right which has been taken away by the laws against banking, guarded by such provisions and limitations as in the opinion of the state legislatures, the public interest requires. These corporations, unless there be an exemption in their charter, are, like private bankers and banking companies, subject to state taxation. The manner in which these taxes shall be laid depends wholly on legislative discretion. It may be upon the bank, upon the stock, upon the profits, or in any other mode which the sovereign power shall will.

Upon the formation of the constitution, the states guarded their taxing power with peculiar jealousy. They surrendered it only as it regards imports and exports. In relation to every other subject within their jurisdiction, whether persons, property, business or professions, it was secured in as ample a manner as it was before possessed. All persons, though United States officers, are liable to a poll tax by the states within which they reside, the lands of the United States are liable to the usual land tax, except in the new states from whom agreements that they will not tax unsold lands, are exacted when they are admitted into the union: horses, wagons, any beasts or vehicles, tools or property, belonging to private



citizens, though employed in the service of the United States are subject to state taxation. Every private business, whether carried on by an officer of the general government or not, whether it be mixed with public concerns or not, even if it be carried on by the government of the United States itself, separately or in partnership, falls within the scope of the taxing power of the state. Nothing comes more fully within it than banks, and the business of banking, by whomsoever instituted and carried on. Over this whole subject matter, it is just as absolute, unlimited and uncontrollable, as if the constitution had never been adopted, because, in the formation of that instrument, it was reserved without qualification.

The principle is conceded, that the states cannot rightfully tax the operations of the general government. They cannot tax the money of the government deposited in the state banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the general government would exempt the state banks and their ordinary business from state taxation. Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle then, are the banking establishments of the bank of the United

States and their usual banking operations, to be exempted from taxation. It is not their public agency or the deposits of the government which the states claim a right to tax, but their banks and their banking powers, instituted and exercised within state jurisdiction for their private emolument—those powers and privileges for which they pay a bonus and which the states tax in their own banks. The exercise of these powers within a state, no matter by whom, or under what authority, whether by private citizens in their original right, by corporate bodies created by the states, by foreigners, or the agents of foreign governments located within their limits, forms a legitimate object of state taxation. From this, and like sources, from the persons, property and business, that are found residing, located or carried on under their jurisdiction, must the states since the surrender of their right to raise a revenue from imports and exports, draw all the money necessary for the support of their governments and the maintenance of their independence. There is no more appropriate subject of taxation than banks, banking and bank-stocks, and none to which the states ought more pertinaciously to cling.

It cannot be necessary to the character of the bank, as a fiscal agent of the government, that its private business should be exempted from that taxation to which all the state banks are liable; nor can I conceive it *proper* that the substantive and the most essential powers reserved by the

states shall be thus attacked and annihilated as a means of executing the powers delegated to the general government. It may be safely assumed that none of those sages who had an agency in forming or adopting our constitution ever imagined that any portion of the taxing power of the states, not prohibited to them nor delegated to congress, was to be swept away and annihilated as a means of executing certain powers delegated to congress.

If our power over means is so absolute that the supreme court will not call in question the constitutionality of an act of congress, the subject of which is 'not prohibited, and is really calculated to effect any of the objects entrusted to the government,' although, as in the case before me, it takes away powers expressly granted to congress, and rights scrupulously reserved to the states, it becomes us to proceed in our legislation with the utmost caution. Though not directly, our own powers and the rights of the states may be indirectly legislated away in the use of means to execute substantive powers. We may not enact that congress shall not have the power of exclusive legislation over the District of Columbia, but we may pledge the faith of the United States that, as a means of executing other powers, it shall not be exercised for twenty years or forever. We may not pass an act prohibiting the states to tax the banking business carried on within their limits, but we may, as a means of executing our powers over other objects, place that business in the hands of our agents,

and then declare it exempt from state taxation in their hands. Thus may our own powers and the rights of the states, which we cannot directly curtail or invade, be frittered away and extinguished in the use of means employed by us to execute other powers. That a bank of the United States, competent to all the duties which may be required by the governments, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the states, I do not entertain a doubt. Had the executive been called upon to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call, it was obviously proper that he should confine himself to pointing out those prominent features in the act presented, which, in his opinion, make it incompatible with the constitution and sound policy. A general discussion will now take place, eliciting new light, and settling important principles; and a new congress, elected in the midst of such discussion, and furnishing an equal representation of the people, according to the last census, will bear to the capitol the verdict of public opinion, and I doubt not bring this important question to a satisfactory result.

Under such circumstances, the bank comes forward and asks a renewal of its charter for a term of fifteen years, upon conditions which not only operates as a gratuity to the stockholders of many millions of dollars, but will sanction any abuses, and legalize any encroachments.

Suspicious are entertained and charges are made of gross abuse and violation of its charter. An investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm.

In the practices of the principal bank partially unveiled, in the absence of important witnesses, and in numerous charges, confidently made, and as yet wholly uninvestigated, there was enough to induce a majority of the committee of investigation, a committee which was selected from the most able and honorable members of the house of representatives, to recommend a suspension of further action upon the bill, and a prosecution of the inquiry. As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so, there seems to be an additional reason why the functionaries of the government should proceed with less haste and more caution in the renewal of their monopoly.

The bank is professedly established as an agent of the executive branches of the government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action nor upon the provisions of

this act was the executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers, and favored by such exemptions. There is nothing in its legitimate functions which make it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it cannot be found either in the wishes or necessities of the executive department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary, but dangerous to the government and country.

It is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes. Distinctions in society will always exist under every just government. Equality of talents, of education, or of wealth, cannot be produced by human institutions. In the full enjoyment of the gifts of heaven, and the fruits of superior industry, economy and virtue, every man is equally entitled to protection by law. But when the laws undertake to add to these natural and just advantages, artificial distinctions, to grant titles, gratuities and exclusive privileges, to make the rich richer, and the potent more powerful, the humble members of society, the farmers, mechanics, and laborers, who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their government.

There are no necessary evils in government. Its evils exist



only in its abuses. If it would confine itself to equal protection, and, as heaven does it rains, shower its favors alike on the high and the low, the rich and the poor ; it would be an unqualified blessing. In the act before me, there seems to be a wide and unnecessary departure from these just principles. Nor is our government to be maintained, or our union preserved by invasions of the rights and powers of the several states. In thus attempting to make our general government strong, we make it weak. Its true strength consists in leaving individuals and states, as much as possible, to themselves — in making itself felt, not in its power but its beneficence, not in its control but in its protection, not in binding the states more closely to the centre, but leaving each to move unobstructed in its proper orbit.

Experience should teach us wisdom. Most of the difficulties our government now encounters, and most of the dangers which impend over our union, have sprung from an abandonment of the legitimate objects of government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits ; but have besought us to make them richer by acts of congress. By attempting to gratify their desires, we have in the results of our legislation, arrayed section against section, interest against interest, and man against man, in a fearful

commotion which threatens to shake the foundations of our union.

It is time to pause in our career, to review our principles, and if possible, revive that devoted patriotism and spirit of compromise, which distinguished the sages of the revolution, and the fathers of our union. If we cannot at once, in justice to the interests vested under improvident legislation, make our government what it ought to be, we can at least take a stand against all new grants of monopolies, and exclusive privileges against any prostitution of our government to the advancement of the few, at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy.

I have now done my duty to my country. If sustained by my fellow citizens, I shall be grateful and happy ; if not, I shall find in the motives which impel me, ample grounds for contentment and peace. In the difficulties which surround us, and the dangers which threaten our institutions, there is cause for neither dismay nor alarm. For relief and deliverance, let us firmly rely on that kind Providence, which I am sure watches with peculiar care over the destinies of our republic, and on the intelligence and wisdom of our countrymen. Through *His* abundant goodness and *their* patriotic devotion, our liberty and union will be preserved.

ANDREW JACKSON.

Washington, July 10, 1832.



*Treaty of Amity, Commerce, and Navigation, between the United States of America and the United Mexican States.*

The United States of America, and the United Mexican States desiring to establish upon a firm basis the relations of friendship that so happily subsist between the two Republics, have determined to fix in a clear and positive manner the rules which shall in future be religiously observed between both, by means of a treaty of Amity, Commerce, and Navigation. For which important object, the President of the United States of America has appointed Anthony Butler, a citizen of the United States, and Chargé d'Affaires of the United States of America near the United Mexican States, with full powers; and the Vice-President of the United Mexican States, in the exercise of the Executive power, having conferred like full powers on his Excellency Lucas Alamán, Secretary of State for Home and Foreign Affairs, and his Excellency Raphael Mangino, Secretary of the Treasury; and the aforesaid Plenipotentiaries after having compared and exchanged in due form their several powers as aforesaid, have agreed upon the following articles:

ARTICLE 1. There shall be a firm, inviolable, an universal peace, and a true and sincere friendship between the United States of America and the United Mexican States in all the extent of their possessions and territories, and between their people and citizens respectively,

without distinction of persons or places.

ART. 2. The United States of America, and the United Mexican States, designing to take for the basis of their agreement the most perfect equality and reciprocity, engage mutually not to grant any particular favor to other nations in respect of commerce and navigation, which shall not immediately become common to the other party; who shall enjoy the same freely, if the concession was freely made, or upon the same conditions, if the concession was conditional.

ART. 3. The citizens of the two countries respectively shall have liberty freely and securely to come with their vessels and cargoes to all such places, ports, and rivers of the United States of America and of the United Mexican States, to which other foreigners are permitted to come; to enter into the same, and to remain and reside in any part of the said territories respectively; also, to hire and occupy houses and warehouses for the purposes of their commerce, and to trade therein, in all sorts of produce, manufactures, and merchandise; and, generally, the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce.

And they shall not pay higher or other duties, imposts, or fees whatsoever, than those which the most favored nations are or may

be obliged to pay ; and shall enjoy all the rights, privileges, and exemptions, with respect to navigation and commerce, which the citizens of the most favored nation do or may enjoy ; but subject always to the laws, usages, and statutes of the two countries respectively.

The liberty to enter and discharge the vessels of both nations of which this article treats, shall not be understood to authorize the coasting trade, which is permitted to national vessels only.

ART. 4. No higher or other duties shall be imposed on the importation into the United Mexican States of any article, the produce, growth, or manufacture of the United States of America, than those which the same or like articles, the produce, growth, or manufacture of any other foreign country do now or may hereafter pay ; nor shall articles, the produce, growth, or manufacture of the United Mexican States, be subject on their introduction into the United States of America, to higher or other duties than those which the same or like articles of any other foreign country do now or may hereafter pay.

Higher duties shall not be imposed in the respective States on the exportation of any article to the States of the other contracting Party, than those which are now or may hereafter be paid on the exportation of the like articles to any other foreign country ; nor shall any prohibition be established on the exportation or importation of any article, the produce, growth, or manufacture of the

United States of America, or of the United Mexican States respectively in either of them, which shall not in like manner be established with respect to other foreign countries.

ART. 5. No higher or other duties as charges on account of tonnage, light or harbor dues. pilotage, salvage in case of damage or shipwreck, or any other local charges, shall be imposed, in any of the ports of Mexico on vessels of the United States of America, than those payable in the same ports by Mexican vessels ; nor in the ports of the United States of America, on Mexican vessels, than shall be payable in the same ports on vessels of the United States of America.

ART. 6. The same duties shall be paid on the importation into the United Mexican States, of any article, the growth, produce, or manufacture of the United States of America, whether such importation shall be in Mexican vessels or in vessels of the United States of America ; and the same duties shall be paid on the importation into the United States of America, of any article, the growth, produce, or manufacture of Mexico, whether such importation shall be in vessels of the United States of America, or in Mexican vessels. The same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation to Mexico of any articles, the growth, produce, or manufacture of the United States of America, whether such exportation shall be in Mexican vessels or in vessels of

the United States of America ; and the same duties shall be paid, and the same bounties and drawbacks allowed, on the exportation of any articles, the growth, produce, or manufacture of Mexico, to the United States of America, whether such exportation shall be in vessels of the United States of America or in Mexican vessels.

ART. 7. All merchants, captains, or commanders of vessels, and other citizens of the United States of America, shall have full liberty in the United Mexican States to direct or manage themselves, their own affairs, or to commit them to the management of whomsoever they may think proper, either as broker, factor, agent, or interpreter ; nor shall they be obliged to employ for the aforesaid purposes any other persons than those employed by Mexicans, nor to pay them higher salaries or remuneration than such as are in like cases paid by Mexicans : and absolute freedom shall be allowed in all cases to the buyer and seller to bargain and fix the prices of any goods, wares, or merchandise imported into, or exported from, the United Mexican States, as they may think proper ; observing the laws, usages, and customs of the country. The citizens of Mexico shall enjoy the same privileges in the States and Territories of the United States of America, being subject to the same conditions.

ART. 8. The citizens of neither of the contracting parties shall be liable to any embargo, nor shall their vessels, cargoes, merchandise, or effects, be detained

for any military expedition, nor for any public or private purpose whatsoever, without a corresponding compensation.

ART. 9. The citizens of both countries, respectively, shall be exempt from compulsory service in the army or navy ; nor shall they be subjected to any other charges, or contributions, or taxes, than such as are paid by the citizens of the States in which they reside.

ART. 10. Whenever the citizens of either of the contracting parties shall be forced to seek refuge or asylum in the rivers, bays, ports, or dominions of the other with their vessels, whether merchant or of war, public or private, through stress of weather, pursuit of pirates or enemies, they shall be received and treated with humanity, with the precautions which may be deemed expedient on the part of the respective Governments in order to avoid fraud, giving to them all favor and protection for repairing their vessels, procuring provisions, and placing themselves in a situation to continue their voyage without obstacle or hindrance of any kind.

ART. 11. All vessels, merchandise, or effects, belonging to the citizens of one of the contracting parties, which may be captured by pirates, whether within the limits of its jurisdiction, or on the high seas, and may be carried into or found in the rivers, bays, ports, or dominions of the other, shall be delivered up to the owners, they proving, in due and proper form, their rights before the competent tribunal ; it being well understood that the



claim shall be made within one year, counting from the capture of said vessels or merchandise, by the parties themselves, or their attorneys, or by the agents of the respective Governments.

ART. 12. When any vessel belonging to the citizens of either of the contracting parties, shall be wrecked, foundered, or shall suffer any damage on the coasts or within the dominions of the other, there shall be given to it all the assistance and protection in the same manner which is usual and customary with the vessels of the nation where the damage happens; permitting them to unload the said vessel, if necessary, of its merchandise effects, with the precautions which may be deemed expedient on the part of the respective Governments, in order to avoid fraud, without exacting for it any duty, impost, or contribution whatever, until they be exported.

ART. 13. In whatever relates to the succession of [personal] estates, either by will or *ab intestato* [and the right of] disposal of such property, of whatever sort or denomination it may be, by sale, donation, exchange, or testament, or in any other manner whatsoever, the citizens of the two contracting parties shall enjoy, in their respective States and Territories, the same privileges, exemptions, liberties, and rights, as native citizens; and shall not be charged, in any of these respects, with other or higher duties or imposts, than those which are now, or may hereafter be paid by the citizens of the Power in whose territories they may reside.

ART. 14. Both the contracting parties promise and engage to give their special protection to the persons and property of the citizens of each other, of all occupations, who may be in their territories, subject to the jurisdiction of the one or of the other, transient or dwelling therein; leaving open and free to them the tribunals of justice for their judicial recourse, on the same terms which are usual and customary with the natives or citizens of the country in which they may be; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents, and factors, as they may judge proper, in all their trials at law; and the citizens of either party, or their agents, shall enjoy, in every respect, the same rights and privileges, either in prosecuting or defending their rights of person or of property, as the citizens of the country where the cause may be tried.

ART. 15. The citizens of the United States of America, residing in the United Mexican States, shall enjoy in their houses, persons, and properties, the protection of the Government, with the most perfect security and liberty of conscience: they shall not be disturbed or molested, in any manner, on account of their religion, so long as they respect the Constitution, the laws, and established usages of the country where they reside; and they shall also enjoy the privilege of burying the dead in places which now are, or may hereafter be assigned for that purpose; nor shall the funerals or sepulchres of the dead be

disturbed in any manner, nor under any pretext.

The citizens of the United Mexican States shall enjoy, throughout all the States and Territories of the United States of America, the same protection; and shall be allowed the free exercise of their religion, in public or in private, either within their own houses, or in the chapels or places of worship set apart for that purpose.

ART. 16. It shall be lawful for the citizens of the United States of America, and of the United Mexican States respectively, to sail with their vessels with all manner of security and liberty, no distinction being made who are the owners of the merchandise laden thereon, from any port to the places of those who now are, or may hereafter be at enmity with the United States of America or with the United Mexican States. It shall likewise be lawful for the aforesaid citizens respectively to sail with their vessels and merchandize, before mentioned, and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy, before mentioned, to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Government or under several; and it is hereby stipulated that free ships shall also give freedom to goods; and that every thing shall be

deemed free and exempt which shall be found on board the vessels belonging to the citizens of either of the contracting parties, although the whole lading or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed that the same liberty be extended to persons who are on board a free vessel, so that, although they be enemies to either party, they shall not be made prisoners, or taken out of that free vessel, unless they are soldiers, and in the actual service of the enemy. By the stipulation that the flag shall cover the property, the two contracting parties agree that this shall be so understood with respect to those powers who recognise this principle; but if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose Governments acknowledge this principle, and not of others.

ART. 17. It is likewise agreed that in the case where the neutral flag of one of the contracting parties shall protect the property of the enemies of the other, by virtue of the above stipulation, it shall always be understood that the neutral property found on board such enemies' vessels shall be held and considered as enemies' property, and as such shall be liable to detention and confiscation, except such property as was put on board such vessel before the declaration of war, or even afterwards if it were done without the knowledge of it: but

the contracting parties agree that four months having elapsed after the declaration, their citizens shall not plead ignorance thereof; on the contrary, if the flag of the neutral does not protect the enemy's property, in that case the goods and merchandises embarked in such enemy's vessel shall be free.

ART. 18. This liberty of commerce and navigation shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband; and under this name of contraband or prohibited goods, shall be comprehended, first, cannons, mortars, howitzers, swivels, blunderbusses, muskets, fusees, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts; and grenades, bombs, powder, matches, balls, and all other things belonging to the use of these arms: secondly, bucklers, helmets, breast-plates, coats of mail, infantry belts, and clothes made up in a military form, and for a military use; thirdly, cavalry belts and horses with their furniture; fourthly, and generally, all kinds of arms, and instruments of iron, steel, brass and copper or of any other materials manufactured, prepared and formed expressly to make war by sea or land.

ART. 19. All other merchandise and things not comprehended in the articles of contraband expressly enumerated and classified as above, shall be held and considered as free and subjects of free and lawful commerce, so that they may be carried and transported in the freest manner

by both the contracting parties, even to places belonging to an enemy, excepting only those places which are at that time besieged or blockaded; and to avoid all doubt in that particular, it is declared that those places only are besieged or blockaded, which are actually besieged or blockaded by a belligerent force capable of preventing the entry of the neutral.

ART. 20. The articles of contraband before enumerated and classified, which may be found in a vessel bound for the enemy's port, shall be subject to detention and confiscation, leaving free the rest of the cargo and the vessel, that the owners may dispose of them as they see proper. No vessels of either of the two nations shall be detained on the high seas on account of having on board articles of contraband whenever the master, captain, or supercargo of said vessel will deliver up the articles of contraband to the captor, unless the quantity of such articles be so great and of so large a bulk, that they cannot be received on board the capturing vessel without great inconvenience; but in this, and in all other cases of just detention, the vessel detained shall be sent to the nearest convenient and safe port for trial and judgment, according to law.

ART. 21. And, whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is besieged, blockaded, or invested, it is agreed that every vessel so situated may be turned away from such port or place, but shall not be detained; nor



shall any part of her cargo, if not contraband, be confiscated, unless, after warning of such blockade or investment from the commanding officer of the blockading force, she should again attempt to enter the aforesaid port ; but she shall be permitted to go to any other port or place she may think proper. Nor shall any vessel of either of the contracting parties, that may have entered into such port before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo ; nor if found therein after the surrender, shall such vessel or her cargo be liable to confiscation, but she shall be restored to the owner thereof.

ART. 22. In order to prevent all kinds of disorder in the visiting and examination of the vessels and cargoes of both the contracting parties on the high seas, they have agreed, mutually, that, whenever a vessel of war, public or private, should meet with a neutral vessel of the other contracting party, the first shall remain out of cannon shot, and may send his boat, with two or three men only, in order to execute the said examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill treatment, for which the commanders of the said armed vessels shall be responsible with their persons and property ; and for this purpose the commanders of said private armed vessels shall, before receiving their commissions, give sufficient security to answer for all the damages

they may commit. And, it is expressly agreed, that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other purpose whatsoever.

ART. 23. To avoid all kinds of vexation and abuse in the examination of papers relating to the ownership of vessels belonging to the citizens of the two contracting parties, they have agreed, and do agree, that in case one of them should be engaged in war, the vessels belonging to the citizens of the other must be furnished with sea letters or passports, expressing the name, property, and bulk of the vessel, and also the name and place of habitation of the master or commander of said vessel, in order that it may thereby appear that the said vessel really and truly belongs to the citizens of one of the contracting parties ; they have likewise agreed that such vessels being laden, besides the said sea letters or passports, shall also be provided with certificates, containing the several particulars of the cargo, and the place whence the vessel sailed, so that it may be known whether any forbidden or contraband goods be on board the same : which certificate shall be made out by the officers of the place whence the vessel sailed, in the accustomed form : without which requisites, the said vessel may be detained to be adjudged by the competent tribunal, and may be declared legal prize, unless the said defect shall be satisfied or supplied by testimony entirely equivalent to the satis-

faction of the competent tribunal.

ART. 24. It is further agreed, that the stipulations above expressed, relative to visiting and examination of vessels, shall apply only to those which sail without convoy : and when said vessels are under convoy, the verbal declaration of the commander of the convoy, or his word of honor that the vessels under his protection belong to the nation whose flag he carries, and when they are bound to an enemy's port, that they have no contraband goods on board shall be sufficient.

ART. 25. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either party shall pronounce judgment against any vessel, or goods, or property claimed by the citizens or the other party, the sentence on decree shall mention the reason or motives on which the same shall have been founded ; and an authenticated copy of the sentence or decree, in conformity with the laws and usages of the country, and of all the proceedings of the case, shall, if demanded, be delivered to the commander or agent of said vessel, without any delay, he paying the legal fees for the same.

ART. 26. For the greater security of the intercourse between the citizens of the United States of America and of the United Mexican States, it is agreed now for then, that if there should be at any time hereafter an interrup-

tion of the friendly relations which now exist, or a war unhappily break out between the two contracting parties, there shall be allowed the term of six months to the merchants residing on the coast, and one year to those residing in the interior of the States and Territories of each other respectively, to arrange their business, dispose of their effects, or transport them wheresoever they may please, giving them a safe conduct to protect them to the port they may designate. Those citizens who may be established in the States and Territories aforesaid, exercising any other occupation or trade, shall be permitted to remain in the uninterrupted enjoyment of their liberty and property, so long as they conduct themselves peaceably, and do not commit any offence against the laws ; and their goods and effects, of whatever class and condition they may be, shall not be subject to any embargo or sequestration whatever, nor to any charge nor tax other than may be established upon similar goods and effects belonging to the citizens of the State in which they reside respectively ; nor shall the debts between individuals, nor moneys in the public funds, or in public or private banks, nor shares in companies, be confiscated, embargoed, or detained.

ART. 27 Both the contracting parties being desirous of avoiding all inequality in relation to their public communications and official intercourse, have agreed and do agree to grant to the envoys, ministers, and other public agents, the same favors, immuni-

nities, and exemptions which those of the most favored nation do or may enjoy; it being understood that whatever favors, immunities, or privileges the United States of America or the United Mexican States may find proper to give to the ministers and public agents of any other power, shall by the same act be extended to those of each of the contracting parties.

ART. 28. In order that the consuls and vice-consuls of the two contracting parties may enjoy the rights, prerogatives, and immunities which belong to them by their character, they shall before entering upon the exercise of their functions, exhibit their commission or patent in due form to the Government to which they are accredited; and having obtained their exequatur, they shall be held and considered as such by all the authorities, magistrates, and inhabitants of the consular district in which they reside. It is agreed likewise to receive and admit consuls and vice-consuls in all the ports and places open to foreign commerce, who shall enjoy therein all the rights, prerogatives and immunities of the consuls and vice-consuls of the most favored nation, each of the contracting parties remaining at liberty to except those ports and places in which the admission and residence of such consuls and vice consuls may not seem expedient.

ART. 29. It is likewise agreed that the consuls, vice-consuls, their secretaries, officers and persons attached to the service of consuls, they not being citizens of the country in which the consul

resides, shall be exempt from all compulsory public service, and also from all kind of taxes, imposts, and contributions levied specially on them, except those which they shall be obliged to pay on account of commerce or their property, to which the citizens and inhabitants, native and foreign, of the country in which they reside, are subject; being in everything besides subject to the laws of their respective States. The archives and papers of the consulates shall be respected inviolably, and under no pretext whatever shall any magistrate seize, or in any way interfere with them.

ART. 30. The said consuls shall have power to require the assistance of the authorities of the country, for the arrest, detention, and custody of deserters from the public and private vessels of their country; and for that purpose, they shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving, by an exhibition of the register of the vessel, or ship's roll, or other public documents, that the man or men demanded were part of said crews; and on this demand so proved, (saving always where the contrary is proved,) the delivery shall not be refused. Such deserters, when arrested, shall be placed at the disposal of the said consuls, and may be put in the public prisons at the request and expense of those who reclaim them, to be sent to the vessels to which they belonged, or to others of the same nation. But, if they be not



sent back within two months, to be counted from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause.

ART. 31. For the purpose of more effectually protecting their commerce and navigation, the two contracting parties do hereby agree, as soon hereafter as circumstances will permit, to form a consular convention, which shall declare specially the powers and immunities of the consuls and vice-consuls of the respective parties.

ART. 32. For the purpose of regulating the interior commerce between the frontier territories of both Republics, it is agreed that the Executive of each shall have power, by mutual agreement, of determining on the route and establishing the roads by which such commerce shall be conducted; and in all cases where the caravans employed in such commerce may require convoy and protection by military escort, the Supreme Executive of each nation, shall, by mutual agreement, in like manner, fix on the period of departure for such caravans, and the point at which the military escort of the two nations shall be exchanged. And it is further agreed, that, until the regulations for governing this interior commerce between the two nations shall be established, that the commercial intercourse between the State of Missouri of the United States of America, and New Mexico in the United Mexican States, shall be conducted as heretofore, each Government affording the necessary protection to the citizens of the other.

ART. 33. It is likewise agreed

that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the lands adjacent to the lines and rivers which form the boundaries of the two countries; and the better to attain this object, both parties bind themselves expressly to restrain, by force, all hostilities and incursions on the part of the Indian nations living within their respective boundaries: so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their territory; nor will the United Mexican States permit the Indians residing within their territories to commit hostilities against the citizens of the United States of America, nor against the Indians residing within the limits of the United States, in any manner whatever.

And in the event of any person or persons captured by the Indians who inhabit the territory of either of the contracting parties, being or having been carried into the territories of the other, both Governments engage and bind themselves in the most solemn manner to return them to their country as soon as they know of their being within their respective territories, or to deliver them up to the agent or representative of the Government that claims them, giving to each other, reciprocally, timely notice, and the claimant paying the expenses incurred in the transmission and maintenance of such person or persons, who, in the mean time, shall be treated with the utmost hospitality by the local

authorities of the place where they may be. Nor shall it be lawful, under any pretext whatever, for the citizens of either of the contracting parties to purchase or hold captive prisoners made by the Indians inhabiting the territories of the other.

ART. 34. The United States of America and the United Mexican States, desiring to make as durable as circumstances will permit, the relations which are to be established between the two parties by virtue of this treaty or general convention of amity, commerce, and navigation, have declared solemnly, and do agree to the following points:

First. The present treaty shall remain and be of force for eight years from the day of the exchange of the ratifications, and until the end of one year after either of the contracting parties shall have given notice to the other of its intention to terminate the same; each of the contracting parties reserving to itself the right of giving such notice to the other, at the end of said term of eight years. And it is hereby agreed between them, that, on the expiration of one year after such notice shall have been received by either of the parties from the other party, this treaty, in all its parts, relating to commerce and navigation, shall altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both the contracting parties.

Secondly. If any one or more of the citizens of either party shall infringe any of the articles of this treaty, such citizens shall

be held personally responsible for the same; and the harmony and good correspondence between the two nations shall not be interrupted thereby; each party engaging in no way, to protect the offender, or sanction such violation.

Thirdly. If (what indeed cannot be expected) any of the articles contained in the present treaty shall be violated or infringed in any manner whatever, it is stipulated that neither of the contracting parties will order or authorize any acts of reprisal, nor declare war against the other, on complaints of injuries or damages, until the said party considering itself offended, shall first have presented to the other a statement of such injuries or damages, verified by competent proofs, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.

Fourthly. Nothing in this treaty contained, shall however be construed to operate contrary to former and existing public treaties with other Sovereigns or States.

The present treaty of amity, commerce, and navigation, shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the Vice-President of the United Mexican States, with the consent and approbation of the Congress thereof; and the ratifications shall be exchanged in the city of Washington, within the term of one year, to be counted from the date of the signature hereof; or sooner, if possible.

In witness whereof, We, the Plenipotentiaries of the United States of America and of the United Mexican States, have signed and sealed these presents. Done in the city of Mexico, on the fifth day of April, in the year of our Lord one thousand eight hundred and thirty-one, in the fifty-fifth year of the Independence of the United States of America, and in the eleventh of that of the United Mexican States.

A. BUTLER. [L. s.]  
 LUCAS ALAMAN. [L. s.]  
 RAFAEL MANGINO. [L. s.]

#### *Additional Article.*

Whereas, in the present state of the Mexican shipping, it would not be possible for Mexico to receive the full advantage of the reciprocity established in the fifth and sixth articles of the treaty signed this day, it is agreed that for the term of six years, the stipulations contained in the said articles shall be suspended; and in lieu thereof, it is hereby agreed, that, until the expiration of the said term of six years, American vessels entering into the ports of Mexico, and all articles, the produce, growth, or manufacture of the United States of America, imported in such vessels, shall pay no other or higher duties, than are or may hereafter be payable in the said ports by the vessels and the like articles, the growth, produce, or manufacture of the most favored nation; and, reciprocally, it is agreed that Mexican vessels entering into the

ports of the United States of America, and all articles, the growth, produce, or manufacture, of the United Mexican States, imported in such vessels, shall pay no other or higher duties than are, or may hereafter be, payable in the said ports by the vessels and the like articles, the growth, produce, or manufacture of the most favored nation; and that no higher duties shall be paid, or bounties or drawbacks allowed, on the exportation of any article, the growth, produce, or manufacture of either country, in the vessels of the other, than upon the exportation of the like articles in the vessels of any other foreign country.

The present additional article shall have the same force and value as if it had been inserted, word for word, in the treaty signed this day. It shall be ratified, and the ratification exchanged at the same time.

In witness whereof, We, the respective Plenipotentiaries, have signed and sealed the same.

Done at Mexico on the fifth day of April, one thousand eight hundred and thirty-one.

A. BUTLER. [L. s.]  
 LUCAS ALAMAN. [L. s.]  
 RAFAEL MANGINO. [L. s.]

The said ratifications exchanged at Washington on the fifth day of April, one thousand eight hundred and thirty-two, by Edward Livingston, Secretary of State of the United States of America, and Jose Montoya, Chargé d'Affaires of the United Mexican States, on the part of their respective Governments.



*A Proclamation by the President of the United States of America.*

WHEREAS, a treaty of Limits between the United States of America, and the United Mexican States was concluded and signed by the Plenipotentiaries of the two countries, at Mexico, on the twelfth January, one thousand eight hundred and twentyeight :

Whereas, also, an additional article thereto was concluded and signed by the Plenipotentiaries of the two countries, at Mexico, on the fifth April, one thousand eight hundred and thirtyone, which treaty and additional article are word for word as follows :

The limits of the United States of America with the bordering Territories of Mexico having been fixed and designated by a solemn treaty, concluded and signed at Washington, on the twentysecond day of February, in the year of our Lord one thousand eight hundred and nineteen, between the respective Plenipotentiaries of the Government of the United States of America, on the one part, and of that of Spain on the other : And whereas, the said treaty having been sanctioned at a period when Mexico constituted a part of the Spanish Monarchy, it is deemed necessary now to confirm the validity of the aforesaid treaty of limits, regarding it as still in force and binding between the United States of America, and the United Mexican States :

With this intention, the Presi-

dent of the United States of America has appointed Joel Roberts Poinsett their Plenipotentiary ; and the President of the United Mexican States their excellencies Sebastian Camacho and José Ygnacio Esteva :

And the said Plenipotentiaries having exchanged their full powers, have agreed upon and concluded, the following articles :

ART. 1. The dividing limits of the respective bordering territories of the United States of America and of the United Mexican States, being the same as were agreed and fixed upon by the abovementioned treaty of Washington, concluded and signed on the twentysecond day of February, in the year one thousand eight hundred and nineteen, the two high contracting parties will proceed forthwith to carry into full effect the third and fourth articles of said treaty, which are herein recited, as follows :

ART. 2. The boundary line between the two countries, west of the Mississippi, shall begin on the gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north along the western bank of that river, to the 32d degree of latitude ; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Natchitoches, or Red river ; then, following the course of the Rio Roxo westward, to the degree of longitude 100 west from London, and 23 from

Washington ; then, crossing the said Red River, and running thence by a line due north, to the river Arkansas ; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north ; and thence, by that parallel of latitude, to the South sea : the whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas river shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42 ; and thence, along the said parallel, to the South sea. All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States ; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line ; that is to say : the United States hereby cede to his Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the territories lying west and south of the above described line ; and, in like manner, his Catholic Majesty cedes to the said United States

all his rights, claims, and pretensions to any territories east and north of the said line ; and for himself, his heirs, and successors, renounces all claim to the said territories forever.

ART. 3. To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line, from the mouth of the Sabine, to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is agreed upon and stipulated, and the line of latitude 42, to the South sea. They shall make out plans, and keep journals of their proceedings ; and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ART. 4. The present treaty shall be ratified, and the ratifications shall be exchanged at Washington, within the term of four months, or sooner if possible.

In witness whereof, we, the respective Plenipotentiaries have signed the same, and have hereunto affixed our respective seals.

Done at Mexico, this twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, in the fifty-second year of the Independence of the United States of America, and in the eighth of that of the United Mexican States.

J. R. POINSETT. [L. s.]

S. CAMACHO. [L. s.]

J. Y. ESTEVAN. [L. s.]

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*Additional Article to the Treaty of Limits concluded between the United States of America and the United Mexican States, on the 12th day of January, 1828.*

The time having elapsed which was stipulated for the exchange of ratifications of the Treaty of Limits between the United Mexican States and the United States of America, signed in Mexico on the 12th of January, 1828; and both Republics being desirous that it should be carried into full and complete effect, with all due solemnity, the President of the United States of America has fully empowered, on his part, Anthony Butler, a citizen thereof, and Chargé d' Affaires of the said States in Mexico; And the Vice-President of the United Mexican States, acting as President thereof, has, in like manner, fully empowered on his part their Excellencies Lucas Alaman, Secretary of State and Foreign Relations, and Rafael Mangino, Secretary of the Treasury who after having exchanged their mutual powers, found to be ample and in form,

have agreed, and do hereby agree, on the following article:

The ratifications of the Treaty of Limits, concluded on the 12th January, 1828, shall be exchanged at the City of Washington, within the term of one year, counting from the date of this agreement, and sooner should it be possible.

The present Additional Article shall have the same force and effect as if it had been inserted word for word in the aforesaid treaty of the 12th of January, of 1828, and shall be approved and ratified in the manner prescribed by the Constitutions of the respective States.

In faith of which, the said Plenipotentiaries have hereunto set their hands and affixed their respective seals. Done in Mexico, the fifth of April, of the year one thousand eight hundred and thirtyone, the fiftyfifth of the Independence of the United States of America, and the eleventh of that of the United Mexican States.

A. BUTLER. [L. s.]

LUCAS ALAMAN. [L. s.]

RAFAEL MANGINO. [L. s.]

AND WHEREAS, the said Treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on the fifth day of April, one thousand eight hundred, and thirtytwo, by EDWARD LIVINGSTON, Secretary of State of the United States of America, and JOSE MONTROYA, Chargé d' Affaires of the United Mexican States, on the part of their respective Governments.



NOW, THEREFORE, BE IT KNOWN, That I, ANDREW JACKSON, President of the United States of America, have caused the said treaty to be made public, to the end that the same, and every clause and article thereof, may be observed and fulfilled with good faith, by the United States and the citizens thereof.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Seal of the United States to be affixed.

DONE at the City of Washington, this fifth day of April, in the year of our Lord [L. s.] one thousand eight hundred and thirtytwo, and of the Independence of the United States the fifty-sixth.

ANDREW JACKSON.

By the President :

EDW : LIVINGSTON,

*Secretary of State.*

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*Treaty with the Ottoman Porte. — A Proclamation by the President of the United States of America.*

WHEREAS, a treaty of commerce and navigation between the United States of America and the Ottoman Porte, was concluded and signed at Constantinople by the respective Plenipotentiaries of the two powers, on the seventh day of May, in the year of our Lord one thousand eight hundred and thirty, and the said treaty was duly ratified, by the President, on the part of the said United States, on the second day of February, in the year of our Lord one thousand eight hundred and thirtyone, in pursuance of the advice and consent of the Senate, as signified by their resolution of the first day of that month : and whereas, the ratification by the President, of the said treaty in the Turkish language, and in a translation thereof into the English, annexed thereto, was ex-

changed at Constantinople, on the fifth day of October, eighteen hundred and thirtyone, by DAVID PORTER, the Chargé d'Affaires of the United States near the Sublime Porte, and NEDJIB EFFENDI, Reis Effendi of the Porte, for the ratification of the Sultan ; which convention, as ratified by the President, in the English version, is, word for word, as follows :

The object of this firm instrument, and the motive of this writing well drawn up, is, that —

No treaty or diplomatic and official convention, having, heretofore, existed, between the Sublime Porte, of perpetual duration, and the United States of America ; at this time, in consideration of the desire formerly expressed, and of repeated propositions which have lately been renewed by that power, and in consequence of the wish entertained by the

Sublime Porte to testify to the United States of America, its sentiments of friendship, We, the Undersigned, Commissioners, invested with the high office of Chief of the Chancery of State of the Sublime Porte, existing forever, having been permitted by His very Noble Imperial Majesty to negotiate and conclude a treaty, and having thereupon conferred with our friend, the honorable Charles Rhind, who has come to this Imperial Residence, furnished with full powers to negotiate, settle, and conclude, the articles of a treaty, separately and jointly with the other two Commissioners, Commodore Biddle and David Offley, now at Smyrna, have arranged, agreed upon and concluded, the following articles:

ART. 1. Merchants of the Sublime Porte, whether Musselmans or Rayahs, going and coming, in the countries, provinces, and ports, of the United States of America, or proceeding from one port to another, or from the ports of the United States to those of other countries, shall pay the same duties and other imposts that are paid by the most favored nations; and they shall not be vexed by the exaction of higher duties; and in travelling by sea and by land, all the privileges and distinctions observed towards the subjects of other Powers, shall serve as a rule, and shall be observed towards the merchants and subjects of the Sublime Porte. In like manner, American merchants who shall come to the well defended countries and ports of the Sublime Porte, shall pay the

same duties and other imposts, that are paid by merchants of the most favored friendly Powers, and they shall not, in any way, be vexed or molested. On both sides, travelling passports shall be granted.

ART. 2. The Sublime Porte may establish *Shahbenders* (Consuls) in the United States of America; and the United States may appoint their citizens to be Consuls or Vice Consuls, at the commercial places in the dominions of the Sublime Porte, where it shall be found needful to superintend the affairs of commerce. These Consuls or Vice Consuls shall be furnished with *Berats* or *Firmands*; they shall enjoy suitable distinction, and shall have necessary aid and protection.

ART. 3. American merchants established in the well defended States of the Sublime Porte, for purposes of commerce, shall have liberty to employ *Semsars* (brokers) of any nation or religion, in like manner as merchants of other friendly powers; and they shall not be disturbed in their affairs, nor shall they be treated in any way, contrary to established usages. American vessels arriving at, or departing from, the ports of the Ottoman Empire, shall not be subjected to greater visit, by the officers of the custom-house and the Chancery of the Porte, than vessels of the most favored nation.

ART. 4. If litigations and disputes should arise between the subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard, nor shall judgment be pronounced

unless the American Dragoman be present. Causes in which the sum may exceed five hundred piastres, shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, and not being charged or convicted of any crime or offence, shall not be molested ; and even when they may have committed some offence, they shall not be arrested and put in prison by the local authorities, but they shall be tried by their Minister or Consul, and punished according to their offence, following, in this respect, the usage observed towards other Franks.

ART. 5. American merchant vessels that trade to the dominions of the Sublime Porte, may go and come in perfect safety with their own flag ; but they shall not take the flag of any other Power, nor shall they grant their flag to the vessels of other nations and Powers, nor to the vessels of rayahs. The Minister, Consuls, and Vice Consuls of the United States, shall not protect, secretly or publicly, the rayahs of the Sublime Porte, and they shall never suffer a departure from the principles here laid down and agreed to by mutual consent.

ART. 6. Vessels of war of the two contracting parties, shall observe towards each other, demonstrations of friendship and good intelligence, according to naval usage ; and towards merchant vessels they shall exhibit the same kind and courteous manner.

ART. 7. Merchant vessels of the United States, in like manner as vessels of the most favored nations, shall have liberty to pass the Canal of the Imperial Residence, and go and come in the Black Sea, either laden or in ballast ; and they may be laden, with the produce, manufactures and effects of the Ottoman Empire, excepting such as are prohibited, as well as of their own country.

ART. 8. Merchant vessels of the two contracting parties shall not be forcibly taken, for the shipment of troops, munitions and other objects of war, if the Captains or proprietors of the vessels shall be unwilling to freight them.

ART. 9. If any merchant vessel of either of the contracting parties, should be wrecked, assistance and protection shall be afforded to those of the crew that may be saved ; and the merchandise and effects, which it may be possible to save and recover, shall be conveyed to the Consul, nearest to the place of the wreck, to be, by him, delivered to the proprietors.

[CONCLUSION.]

The foregoing articles, agreed upon and concluded, between the Riasset (Chancery of State,) and the above mentioned Commissioner of the United States, when signed by the other two Commissioners, shall be exchanged. In ten months from the date of this *Temessuck*, or instrument of treaty, the exchange of the ratifications of the two Powers shall be made, and the articles of this treaty shall have full force and be



strictly observed by the two Contracting Powers.

Given the fourteenth day of the moon Zilcaade, and in the year of the Hegira, 1245, corresponding with the seventh day of May, of the year one thousand eight hundred and thirty of the Christian Æra.

(Signed)

MOHAMMED HAMID,  
Reis-ul-Kutab.  
(Reis Effendi.)

Now, THEREFORE, to the end that the said treaty may be observed and performed with good faith on the part of the United States; I have caused the premises to be made public, and I do hereby enjoin all persons bearing office, civil or military, within the

United States, and all others, citizens or inhabitants thereof, or being within the same, faithfully to observe and fulfil the said treaty, and every clause and article thereof.

IN TESTIMONY WHEREOF, I have caused the Seal of the United States to be hereunto affixed, and have signed the same with my hand.

DONE at Washington, this fourth day of February, in the year of our Lord one [L. s.] thousand eight hundred and thirtytwo, and of the independence of the United States the fiftysixth.

ANDREW JACKSON.

By the President:

EDW : LIVINGSTON,  
Secretary of State.

*Articles of a Treaty made at the City of Washington between Lewis Cass, thereto specially Authorized by the President of the United States, and the Creek Tribe of Indians.*

ART. 1. The Creek tribe of Indians cede to the United States all their land, East of the Mississippi river.

ART. 2. The United States engage to survey the said land as soon as the same can be conveniently done, after the ratification of this treaty, and when the same is surveyed to allow ninety principal Chiefs of the Creek tribe to select one section each, and every other head of a Creek family to select one half section each, which tracts shall

be reserved from sale for their use for the term of five years, unless sooner disposed of by them. A census of these persons shall be taken under the direction of the President, and the selections shall be made so as to include the improvements of each person within his selection, if the same can be so made, and if not, then all the persons belonging to the same town, entitled to selections, and who cannot make the same, so as to include their improvements, shall take them in one body in a

proper form. And twenty selections shall be selected, under the direction of the President for the orphan children of the Creeks, and divided and retained or sold for their benefit as the President may direct. Provided however that no selections or locations under this treaty shall be so made as to include the agency reserve.

ART. 3. These tracts may be conveyed by the persons selecting the same, to any other persons for a fair consideration, in such manner as the President may direct. The contract shall be certified by some person appointed for that purpose by the President, but shall not be valid till the President approves the same. A title shall be given by the United States on the completion of the payment.

ART. 4. At the end of five years, all the Creeks entitled to these selections, and desirous of remaining, shall receive patents therefor in fee simple from the United States.

ART. 5. All intruders upon the country hereby ceded shall be removed therefrom in the same manner as intruders may be removed by law from other public land until the country is surveyed, and the selections made; excepting however from this provision, those white persons who have made their own improvements, and not expelled the Creeks from theirs. Such persons may remain till their crops are gathered. After the country is surveyed and the selections made, this article shall not operate upon that part of it not included in such selections. But intruders shall, in the manner before described, be

removed from these selections for the term of five years from the ratification of this treaty, or until the same are conveyed to white persons.

ART. 6. Twentynine sections in addition to the foregoing may be located, and patents for the same shall then issue to those persons, being Creeks, to whom the same may be assigned by the Creek tribe. But whenever the grantees of these tracts possess improvements, such tracts shall be so located as to include the improvements, and as near as may be in the centre. And there shall also be granted by patent to Benjamin Marshall, one section of land, to include his improvements on the Chatahoochee river, to be bounded for one mile in a direct line along the said river, and to run back for quantity. There shall also be granted to Joseph Bruner, a colored man, one half section of land, for his services as an interpreter.

ART. 7. All the locations authorised by this treaty, with the exception of that of Benjamin Marshall shall be made in conformity with the lines of the surveys; and the Creeks relinquish all claim for improvements.

ART. 8. An additional annuity of twelve thousand dollars shall be paid to the Creeks for the term of five years, and thereafter the said annuity shall be reduced to ten thousand dollars, and shall be paid for the term of fifteen years. All the annuities due to the Creeks shall be paid in such manner as the tribe may direct.

ART. 9. For the purpose of paying certain debts due by the Creeks, and to relieve them in

their present distressed condition, the sum of one hundred thousand dollars shall be paid the Creek tribe, as soon as may be after the ratification hereof, to be applied to the payment of their just debts, and then to their own relief, and to be distributed as they may direct, and which shall be in full consideration of all improvements.

ART. 10. The sum of sixteen thousand dollars shall be allowed as a compensation to the delegation sent to this place, and for the payment of their expenses, and of the claims against them.

ART. 11. The following claims shall be paid by the United States.

For ferries, bridges and causeways, three thousand dollars, provided that the same shall become the property of the United States.

For the payment of certain judgments obtained against the chiefs eight thousand five hundred and seventy dollars.

For losses for which they suppose the United States responsible seven thousand, seven hundred and ten dollars.

For the payment of improvements under the treaty of 1826 one thousand dollars.

The three following annuities shall be paid for life.

To Tuske-hew-haw-Cusetaw two hundred dollars.

To the blind Uchu King one hundred dollars.

To Neah Mico one hundred dollars.

There shall be paid the sum of fifteen dollars, for each person who has emigrated without expense to the United States, but the whole sum allowed under this provision shall not exceed fourteen hundred dollars.

There shall be divided among the persons, who suffered in consequence of being prevented from emigrating, three thousand dollars.

The land hereby ceded shall remain as a fund from which all the foregoing payments except those in the ninth and tenth articles shall be paid.

ART. 12. The United States are desirous that the Creeks should remove to the country west of the Mississippi, and join their countrymen there, and for this purpose it is agreed, that as fast as the Creeks are prepared to emigrate, they shall be removed at the expense of the United States, and shall receive subsistence while upon the journey, and for one year after their arrival at their new homes — Provided however, that this article shall not be construed so as to compel any Creek Indian to emigrate, but they shall be free to go or stay, as they please.

ART. 13. There shall also be given to each emigrating warrior a rifle, moulds, wiper and ammunition, and to each family one blanket. Three thousand dollars, to be expended as the President may direct, shall be allowed for the term of twenty years for teaching their children. As soon as half their people emigrate, one blacksmith shall be allowed them, and another when two-thirds emigrate, together with one ton of iron and two hundred weight of steel annually for each blacksmith. — These blacksmiths shall be supported for twenty years.

ART. 14. The Creek country west of the Mississippi shall be solemnly guarantied to the



Creek Indians, nor shall any State or Territory ever have a right to pass laws for the government of such Indians, but they shall be allowed to govern themselves, so far as may be compatible with the general jurisdiction which Congress may think proper to exercise over them. And the United States will also defend them from the unjust hostilities of other Indians, and will also as soon as the boundaries of the Creek country West of the Mississippi are ascertained, cause a patent or grant to be executed to the Creek tribe; agreeably to the third section of the act of Congress of May 2d, 1830, entitled 'An act to provide for an exchange of lands with the Indians residing in any of the

States, or Territories, and for their removal West of the Mississippi.'

ART. 15. This treaty shall be obligatory on the contracting parties, as soon as the same shall be ratified by the United States.

In testimony whereof the said Lewis Cass, and the undersigned Chiefs of the said tribe have hereunto set their hands at the City of Washington this 24th day of March A. D. 1832.

LEWIS CASS.

Opothebolo	his x mark.
Tuchebatcheehadgo	his' x mark.
Efiematla	his x mark.
Tuchebatche Micco	his x mark.
Tomack Micco	his x mark.
William McGilvéry	his x mark.
Benjamin Marshall	

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*Correspondence Relating to the Negotiation of the Treaty with the Sublime Porte, &c, &c, &c.*

*Mr Bradish to Mr Adams, Secretary of State.*

Constantinople, }  
20th December, 1820. }

SIR: In availing myself of the permission obligingly granted me by you, previous to my leaving Washington in April last, I cannot flatter myself with the idea of adding much to the information already possessed by you, upon the subjects relating to the interests of the United States embraced in this communication. I hope, however, at least to testify my attachment to those interests, and to evince my readiness at all

times to contribute whatever may be in my power towards their promotion.

The inquiries here, in which the United States are particularly interested, are:

1st. Would the interests of the United States be promoted by a treaty of amity and commerce with the Sublime Porte? If so,

2d. Is the conclusion of such a treaty practicable? And if so,

3d. What is the most eligible mode of accomplishing this object?

After a residence of only a few months within the Turkish do-

minions, for me to attempt even to form, and more particularly to express an opinion on a subject so important in its nature, and so extensive in its relations, as that embraced in the first of the above inquiries, would be to hazard extreme error at least, if not the highest degree of presumption. Sources of correct information upon this interesting subject are here few, and those difficult of access. Loose and vague statements are current in every circle, and are as various as they are generally incorrect. A few days' residence only, would be sufficient to enable any person of tolerable industry to collect these, but when embodied, they would form a basis too frail and uncertain upon which to rest the decision of a question so important as that under consideration. Upon this first question, therefore, although in its nature preliminary to the other two, I must beg leave to reserve myself until more extensive observation and inquiries, and better information, shall enable me to communicate with you thereon, in a manner better suited to its difficulty, and more becoming its importance, than is at present in my power.

I will, however, add, that the strong impressions in favor of the affirmative of this first question, with which I left the United States, have been much strengthened by what I have myself observed, and by the best information I have been able to derive from others since my arrival here.

Notwithstanding, then, the first of the above questions is in its nature preliminary to the other

two, and a decision thereon in the negative would supercede the necessity of any discussion of the two latter, I shall take the liberty of communicating now the result of my observations and inquiries relating to the second and third of these questions. I am the more inclined to do this at the present time, not only because I am impressed with the idea that the United States are already satisfied in the affirmative of the first question, but also from the nature of what has occurred since my arrival in this place. And here, sir, I beg your indulgence, while I premise a few particulars which relate to myself individually. Upon my arrival at Gibraltar, Leghorn, Naples, Malta, Smyrna, and this place, I found a report currently circulating that the object of my visit here was to conclude a commercial treaty between the United States and the Sublime Porte. This report, some months previous to my arrival, had reached this place from various parts of Europe, and coming from different quarters of the United States. I cannot express to you, sir, the painful surprise and mortification I experience at the existence of this report, and am altogether at a loss to conjecture what can have given rise to it. So far from having, in the slightest degree, justified such a report by any unguarded act or expression of mine, I have uniformly observed the most vigilant prudence upon this subject, and have used every means in my power to suppress the report, both by expressly contradicting it, and declaring, on all occasions, that my objects here,

as elsewhere, were merely those of a private individual, travelling for my own gratification and improvement. Even the special passports which the Government were so obliging as to grant me previous to my leaving Washington, I have avoided exhibiting to any person whatever, except Commodore Brainbridge, since I received them from yourself, lest, with persons unacquainted with their real nature, they should give the slightest color to the report, and contribute to its currency. But, notwithstanding all these precautions, the report still continues to circulate. I am sorry to be compelled, sir, thus to mingle my own affairs with those of general interest. But have deemed the communication of the above particulars, due to myself, and trust you will excuse the departure thereby occasioned from the main subjects of my letter, to which I now gladly return.

Taking, then, the affirmative of the first question for granted, I shall proceed to communicate now the result of my observations and inquiries relating to the second and third of the affirmative of the second question. So far as it may depend upon the present dispositions of the Sublime Porte, there can be no doubt. That disposition has been not only clearly indicated by many unequivocal circumstances, but expressly and repeatedly declared by the Government itself to me since my arrival here. Some days after I reached this capital, and previous to my having had any communication whatever with

any department of this Government, I received a message from the Porte, inviting me to a private interview with the Reis Effendi, Minister of State for Foreign Affairs. Although much surprised at the receipt of this invitation, I had no hesitation in accepting it. In the result, I found the object of the interview was to inquire the disposition of the United States in regard to a treaty of amity and commerce with the Porte; and, also, their views as to the mode of negotiating such a treaty. Upon both these points much interest was evinced, and upon the latter considerable solicitude, produced probably by a report prevailing here that the United States contemplate negotiation with this Government through the mediation of Russia. I know not upon what authority this report may have originated, but I have strong reasons to believe that this course would be very unacceptable to the Porte, and probably unsuccessful. Although all persons connected with this Government, with whom I have conversed upon the subject, have, on all occasions, seemed much in favor of a treaty of amity and commerce with the United States, they have appeared equally in favor, indeed very tenacious of direct negotiation. Hence, then, arises the third question proposed.

In the few observations which I shall take the liberty of submitting to your consideration upon this question, I have not the boldness of presuming to enlighten your own or the wisdom of our



Government; and trust this will not be considered by either as an attempt to instruct the latter in the most eligible mode of conducting its negotiations, but as the humble endeavors of an individual, by communicating such information as circumstances and his peculiar situation have put in his possession, to discharge the duty incumbent on every citizen of the United States to contribute whatever may be in his power, however little that may be, towards the promotion of the interests of his country.

From all I have observed of this Government and people, I am well convinced that the success of any overtures the United States may hereafter make to the Sublime Porte, will depend much upon the manner in which the Porte is in the first instance approached. It has heretofore been usual for individuals and nations in their first applications to the sublime Porte, to approach it under the auspices, and through the mediation of some intermediate power already having friendly relations with it. To this mode there are many objections, some in their nature general, and many peculiar as they regard the United States. It would be much more difficult, expensive, and less successful, in the first place, than direct negotiation. But what is more important, it would be attended with many future disadvantages. If a case in proof of the first position were necessary, among many similar, one is furnished by recent experience here. The King of Sardinia, about four years since, employed the mediation of \* \* \*

\* \* \* \* \*, in the negotiation of a treaty of amity and commerce with the Sublime Porte. During this period of four years, this illustrious and very disinterested mediator has gone on negotiating and flattering; and its employer paying and hoping, till at length, finding its funds and patience nearly exhausted, it has wisely come to the decision, it ought at first to have adopted, of taking its own affairs into its own hands; and it has now a prospect of having them concluded. If, therefore, the objections to direct negotiations are many in the outset, for the future, they are more numerous and much stronger. Both desire considerable additional force from the peculiar circumstances of the present moment. Such is at present the posture of the relations of most of the nations of Europe with the Porte; such the character of this Government and people; and such the extreme jealousy entertained by them towards the great European powers generally, and particularly Russia, that any approach made to them by the United States, through any intermediate powers, and especially the latter, would, I am thoroughly convinced, so far identify the United States with such power, as to draw upon them a participation in the jealousies entertained towards it, and subject them to all the prejudices and disadvantages arising therefrom. Any unfavorable change in the relations of such power with the Porte, would extend to, and prejudice those of the United States, established through its mediation. In the

peculiar mind of the Turk, the two nations would be so intimately connected, that he would with difficulty separate them, but would generally associate them in his policy towards either. In all the little intercourse I have had with this Government and people, I have universally found that the nearer I could approach themselves, the fewer the persons interposed between me and them, the more simple, easy, and successful were my transactions. Direct negotiation is particularly suited to the character of the Turks. It implies a degree of confidence which is gratifying to their pride, and which they endeavor by their conduct to justify. I have in my own case made this experiment with them, and have seen this trait of their character clearly evinced. Although this case relates to myself individually, I will take the liberty of mentioning its particulars.

It is usual for all citizens or subjects of powers not having amicable relations established by treaty with the Porte, upon their arrival within the Turkish dominions, to place themselves under the protection of some power having such relations. In my first interview with the Government here, under the supposition that I had, of course, done in this respect what is usual in such cases, I was asked under the protection of what power I had placed myself? I answered, 'that of the Sublime Porte; that I was here a stranger, and reposed myself upon the hospitality of the country; that it would neither consist with my own feelings, and I took it

upon myself to add, nor would it be agreeable to those of my Government, for me, while within the dominion of the Ottoman Porte, to recognise or accept the protection of any other power than that of the Sublime Porte itself. Upon that alone I relied for my security, and felt assured that here I should need no other.' This answer was received with evident surprise and gratification. They have since seemed to endeavor fully to justify the confidence it implied. They have in consequence voluntarily offered me many indulgencies and facilities, (some of them unusual,) which, I am persuaded, would otherwise have been obtained with difficulty or altogether withheld. I mention this case merely as illustrative of what I consider a prominent trait in the character of the Turks, and one that may be turned to much advantage in all intercourse with them. They are indeed a very singular people. Their character seems an extraordinary union of opposite qualities.

Although in many respects extremely uncivilized, they are capable of the most elevated and refined sentiments. An appeal to their generosity and magnanimity, is generally successful, and confidence reposed in them is rarely violated. In any intercourse, therefore, which the United States may have with this Government and people, I am fully satisfied, from all I have observed of both, that, to approach them at all times directly, and not intermediately through any third power, will ever be found, not only most easy and successful in the first

place, but most permanently favorable to the interests of our country; and certainly most consistent with an avowed and very wise principle of policy in its foreign intercourse, 'to have friendly relations with all nations, entangling alliances with none.' In this course, too, we shall have the advantage, which is no inconsiderable one, of being the sole conductors of our own affairs, and the keepers of our own counsels. The peculiar situation of the United States particularly favors this policy. Separated, as we fortunately are, from the nations of Europe by an ocean three thousand miles wide, it is our interest, and in our power to preserve ourselves equally unconnected with its politics; and while we abstain from all political connection with any one nation in particular, to cultivate friendly relations with all. This happy situation of our country exempts it from the necessity experienced by the nations of Europe, of yielding their individual views and interests to the support of a general system. We recognise no Holy Alliance, no 'Tutelar Congress of Sovereigns,' to whose supreme decision our affairs are to be submitted, who, to preserve the general peace, partition nations; solemnly to determine what *sovereign* nation shall lose, and what shall gain territory; which shall be governed by the will of an individual, and which shall have a constitution; whether this sovereign shall be legitimate, or that an usurper. We are happily left independently 'to pursue our own affairs in our own way, un-

embarrassed by all this regulation.' This detached and independent situation of our country, gives it a great advantage in its foreign relations. It renders friendly intercourse with us more desirable to other nations, generally, and more particularly so to this. Such intercourse would, in some degree, relieve the Sublime Porte from the apprehension it perpetually entertains of a change in its relations with the nations of Europe, inasmuch as it would greatly diminish the evils it would otherwise experience from such an event. These advantages are important to our country, and would be particularly useful in any future intercourse it may have with this Government. In departing from this separate independent policy, however, we should sacrifice these advantages.

Direct, in preference to indirect negotiation with this Government, is, in the case of the United States, recommended by another consideration of considerable importance. That narrow system of policy, heretofore pursued by some of the nations of Europe having friendly relations with the Porte, I am exceedingly sorry to have occasion to observe, still continues to influence their conduct. This policy would lead the nations influenced by it, to endeavor to exclude all others from any participation in the privileges which they themselves enjoy. The United States would be particularly an object of this exclusion, in as much as we are, more than any other, an object of jealousy with that nation which



is most influenced by this narrow policy. I know the opinion is generally entertained in our country, that the nations of Europe, heretofore hostile to commercial relations between the United States and the Sublime Porte, would now no longer oppose their establishment; but that, yielding to the influence of liberal principles, and adopting a more enlarged and sounder policy, would be willing to exchange their former monopoly for a fair and more honorable competition. This opinion is incorrect. I speak with confidence upon this subject; I am not left to mere conjecture, or to derive my opinion upon this point from appearances. It is founded upon positive information, derived from the highest source. I am explicitly informed, in confidence, by the Porte itself, that \* \* \* \* \*, under the idea that the United States contemplate negotiation with the Porte, has, within a few days passed, presented to the latter a formal and solemn protest against such negotiation, in which she has even threatened, in case the Porte should conclude a treaty with the United States, to break off her present relations, and declare war against the Porte. The other nations most influenced by the narrow policy which has induced this very singular measure on the part of \* \* \* \* \* are \* \* \* \* \*. \* \* \* \* Although these have been less explicit than \* \* \* \* \*, and have even avowed contrary sentiments, I have reason to believe, that, in this respect, they are, in truth, not more friendly than the latter, but would all be

hostile to the views of the United States in this quarter, and would oppose any advances we might make towards the establishment of commercial relations with the Sublime Porte. This hostility, however, whatever form it may assume, will not, I am well assured, deter the Porte from following its present dispositions upon this subject, provided it be met by the United States. But it would render the Porte desirous, in the existing posture of its relations with the European Powers, and the present state of its own internal affairs generally, and especially with its two revolted provinces, that negotiations should be direct; that the knowledge not only of the fact of negotiation, but the conclusion of a treaty, might thereby be confined to the parties immediately interested therein, until the exchange of ratifications, and the treaty should actually go into effect. This has induced the Porte itself to suggest that the person authorized on the part of the United States to treat, should not appear here as minister, but merely as a private individual, until the treaty should be about to go into effect. It would then be expected that an avowed and accredited minister of the United States should appear and receive the usual formal audience of the Sultan, &c, when the customary presents would, of course, be expected. These latter, indeed, by the usages of the Porte, could not, in any case, be received, nor could the minister have a formal audience until that time. The anxious desire of the Porte for this course,

originating in the posture of its foreign relations, and the existing situation of its own internal affairs, is much strengthened by the character of the persons at present composing its Government. The affairs of its two revolted Pachalics of Albania and Servia, put in requisition the resources of the Government, and render the Porte generally, and particularly the timid, more cautious in adopting any measures that might put at hazard its present relations with the great European powers, or increase the present disaffection among its own subjects. This Government, although nominally composed of many persons, is, in fact, at present, in the hands of a single individual. This individual is Halet Effendi, a man of extraordinary talents and considerable acquirements. He was in the years 1803, '4 and '5, ambassador from the Sublime Porte to the court of France. Since his return here, he has declined all the great offices of the Government, and has only the nominal and irresponsible one of minister of conference, or privy counsellor. In this however, he notoriously possesses the will of the sultan, but wields the entire government of the empire. He is, at present, decidedly in favor of a treaty of amity and commerce with the United States; but he is considered a man in the market; and the other persons of the government favorable to such a treaty, are apprehensive that, if negotiations were opened and avowed, means would be used by the powers opposed to the treaty, to change the present opinion of this minister in regard to it; and

that he, operating upon the weakness of some, and the timidity of others, would thus be able to prevent its conclusion, and thereby defeat what are really the present wishes of the whole Government upon this subject. This, of course, renders the Porte anxious that the negotiations should be direct, and as secret as possible. But, so strongly desirous are the Porte of the conclusion of a treaty of amity and commerce with the United States, that I feel perfectly confident, that, if a person duly authorized by the latter to conclude such treaty, were now here, it might be accomplished in the course of a few days. The present moment, so far as regards the character and dispositions of the Porte generally, is particularly auspicious for this purpose.

Upon the subject of the expense here of such a treaty, I have made every possible inquiry, and have obtained what I believe to be pretty correct information. I believe this whole expense would not exceed 350,000 piastres, (Turkish.) This includes the public presents to be made upon the minister's receiving his formal audience of the Sultan, &c, &c, but does not, of course, include the salary of the minister, &c, &c, employed by the United States in negotiating the treaty.

In this estimate, I have allowed for the public presents	-	piastres	200,000
To preserve Halet Effendi's opinion the same as at present,	-	-	" 50,000
To this minister for procuring the insertion in the treaty of some articles of special favor,	-	-	" 25,000
To the plenipotentiary of the			

Porte, - - -	piastres	25,000
To the chief dragoman of the		
Porte, - - -	"	20,000
To the Secretary of the Porte, "		5,000
To two dragomans employed		
by the United States, each		
5,000 psts. - - -	"	10,000
Contingencies, - - -	"	15,000
Total in Turkish piastres		350,000

The Turkish piastre is at present worth  $\frac{2}{15}$  of the Spanish dollar, and  $\frac{1}{35}$  of the pound sterling. It of course varies in value according to the exchange. There is generally here considerable advantage in drawing on London, as will be perceived by comparing the present value here of the Spanish dollar, and the pound sterling.

The amount of public presents included in the above estimate, is as low as would be satisfactory to the Porte. Their expectations on such occasions are generally regulated by their own estimate of the nation treating, and the extent of the privileges accorded it in the treaty. As the United States are here considered a nation of the first class, and would be placed upon the footing of the most favored, it would be expected that its munificence would correspond therewith. The presents, on a similar occasion, of even the King of the two Sicilies, considered here quite a second rate power, and enjoying only partial privileges, amounted to 180,000 piastres; so that under such a treaty as I suppose would alone satisfy the United States, 200,000 piastres in public presents would be quite as little as would be thought by the Porte to correspond with the high character of the United States, and

with the extent of the privileges to be granted them; and quite as little as would be satisfactory to the Porte. These presents may be procured here, but much better, and with more economy in the United States, England, and France.

The items included in the above estimate, as special presents to Halet Effendi, Plenipotentiary, Chief Dragoman and Secretary, would not be considered here as bribes, but as the usual and just compensation for the extraordinary services they would in their respective situations be called upon to render. This is here the general usage and course of business; a thing of course perfectly understood, and not only countenanced, but expected by the Sultan himself. Indeed, it is quite impossible otherwise to accomplish anything here.

The 25,000 piastres included in the estimate for procuring the insertion in the treaty of articles of special favor, would not of course be necessary, if such articles should not be desired. But, I think, that a few such articles would be important to the interests of the United States: for example, the right of exporting from the empire wheat, dried fruits, olive oil, soap, &c., &c., which at present is prohibited to all nations; and is now only done in contravention of existing laws and treaties. This right, with some other similar ones, in the various vicissitudes of the relations of the European powers with the Porte, and the consequent fluctuations of trade in these seas, would, it is thought,



be important, not only to the direct but the carrying trade, which the United States might have here. I have therefore inserted in the estimate this item of 25,000 piastres, and think it might be advantageously employed in the way proposed. The item of 15,000 piastres for contingencies might or might not be necessary as circumstances should turn out. Upon the whole, I think the amount of the estimate would be found to be very nearly correct. Whether this and the other expenses incident to the establishment, and preservation of amicable and commercial relations with the Sublime Porte, would be counterbalanced by the advantages which the United States would derive therefrom, is a question for the wisdom of our Government to decide.

The commerce of the United States with this empire is, notwithstanding its present discouragements, considerably increasing. The want of custom house records, and the indirect manner in which this commerce is now necessarily carried on, render it difficult to ascertain precisely its amount. But from the best information I have been able to obtain, it amounts, in imports and exports, to about one million and a half of dollars annually. The disadvantages which this commerce experiences at present are a want of protection, and the consequent extra duties and charges to which it is thereby subjected. The duty to this Government upon the commerce of the most favored of the European nations, having commercial rela-

tions with the Porte, is fixed by their treaties at 3 per cent; while the subjects of this Government, the less favored nations having amicable relations with the Porte, and all nations having no such relations established by treaty, pay 5 per cent. To this duty, the commerce of the United States is of course subject. Although a more favorable tariff has, occasionally, through the influence of individuals, been obtained from 'the Grand Customer' or Farmer General of the revenues, yet, when the extra charges in presents, special commissioners, &c. &c., which are the consequence of want of protection, are taken into consideration, I am well satisfied that the commerce of the United States here pay at present full 3 per cent more than it would do in case of a treaty with the Porte.

This 3 per cent upon \$1,500,000 would amount to \$45,000 annually, a sum nearly equal to the expense of establishing amicable and commercial relations with the Porte.

Most of the European nations, having commercial relations with this, defray the expense incident to the preservation of those relations by a small special tax upon their commerce in this quarter. The commerce of Great Britain here, which is more considerable than that of any other nation, is entirely in the hands of the Levant company, incorporated by an act of Parliament of the 26th of George II. This company have the right, which they exercise, of levying a duty (called consulage and dragomanage) of

about one per cent upon their commerce here. This duty is collected by their consuls and vice consuls in the various ports of the empire; and by them paid into the treasury of the company in London. Out of this fund is paid the salary of their chancellor, consul general, consuls, vice consuls, dragomen, jannissaries, &c, &c; in short every expense incident to the prosecution of the company's trade and the preservation of the nation's relations with the Porte, except only the salary of the ambassador. There has always been a considerable surplus of this fund, which the company have employed in public works in England; in the establishment and support of an extensive institution as an asylum for the unfortunate members of the company. For your better information of the organization and transactions of this company, I take the liberty of sending you, accompanying this, a copy of the by-laws and tariffs. I send you also copies of the treaties of the Porte with Great Britain, France, and the ancient Venetians; together with a statement of the commerce of Smyrna for one year, ending the 31st August, last. That of the United States, you will perceive, is not separately stated; there being in this country, as before observed, no public records of commerce: and that of the United States being generally carried on indirectly, it is exceedingly difficult to ascertain it with accuracy. From the most correct data I have been able to collect, its imports and exports amount to something

more than a million of dollars annually. It is, against all the obstacles with which it has to contend, gradually increasing both in the number and tonnage of the vessels employed in it, and in the value of their cargoes. With the advantage of a favorable commercial treaty with the Porte, and the protection of our own Government, I cannot doubt it would soon become flourishing and important. Turkey would afford an advantageous market for many articles, the produce of our own country; many, the returns of our Chinese, East and West India trade; and would supply many valuable in the prosecution of the second and third; and many of increasing importance in the growing manufactures of our country. The superior construction of our vessels; the greater enterprise, nautical knowledge and skill with which they are navigated, would give to our commerce here a decided advantage over that of any nation at present prosecuting a trade in this quarter. But, upon this extensive and interesting subject, I have proposed not to enter at present. I perceive that I have already extended my letter much beyond its originally intended limits, and feel that I ought to apologise for having trespassed so long upon your time.

Permit me, sir, merely to subjoin, that it is my present intention to make Constantinople and its neighborhood my principal residence for the next twelve months. If, during that, or even a more extended period, I can in any way be in the least degree useful to

yourself or our Government, it would be superfluous for me to add that I should esteem it the highest honor to receive your or their commands, and should experience the highest gratification in their faithful execution. My address here, is to the care of Messrs. James Barbaud & Co.; and in London, to the care of Baring, Brothers & Co. Any thing sent to the latter gentlemen, to be forwarded, will reach me here in from thirty to forty days from London.

I avail myself of the opportunity, which this occasion affords me, of offering you an assurance of the high respect and consideration with which I have the honor to be, sir,

Your most obedient and humble servant.

L. BRADISH.

[PRIVATE.]

*Mr Adams to Mr G. B. English.*

Department of State, }  
Washington, April 2, 1823. }

SIR: You are hereby authorized to proceed on the voyage suggested in your letters of the 26th and 28th ultimo, and for the purposes expressed in them. You will inform me, by private letters, of your progress and success; and will communicate, as often as you shall have convenient and safe opportunities, any information, commercial or political, which may come to your knowledge, and which may be interesting to the United States.

I am, with much respect, sir, your humble and obedient servant,

JOHN QUINCY ADAMS.

ORGE B. ENGLISH, Esq.

[PRIVATE.]

*Extract of a Letter from Mr English to Mr Adams.*

Marseilles, 6th August, 1823.

I have had the good fortune to find in Marseilles a person who possesses a copy of the treaty or capitulation at present subsisting between France and the Porte. It is in Turkish, but I have engaged a competent person to translate it into French, and also the tariff established by the Ottoman Government. As soon as these translations are finished, I will forward them to you, and that done, shall embark for Constantinople by the first opportunity.

As it would not perhaps be easy for me to obtain these pieces at Constantinople without incurring suspicion, I did not doubt that you would approve of my delaying fifteen or twenty days at Marseilles for the purpose of obtaining quietly, and without observation, translations of these documents, which may be of use to the Department of State in case the American government should attempt to negotiate a treaty with the Ottoman Emperor.

I have the honor to be, sir, with high respect, your most obedient servant,

GEORGE BETHUNE ENGLISH.

*Extract of a letter from Mr English, to Mr John Q. Adams, dated*

Constantinople, }  
November 23, 1823. }

I feel much pleasure in being able to inform you that the present Captain Pasha, is the same person to whom I was introduced when at Constantinople six years ago. He has been recalled from Trebizonde, and replaced at the head of the Turkish marine.



He is at present in the Archipelago, but his return here is daily expected. I consider this circumstance as very fortunate, as I shall have occasion to call upon him to pay my respects, and to request his countenance and protection during my stay at Constantinople. The first visit will probably lead to others, during which I may find an opportunity of advancing step by step towards obtaining those objects which I consider so important to the commercial interests of the United States, and which I believe to be, by proper management, attainable without extraordinary difficulty. In proof of which, I would mention that the Sardinian flag has recently obtained the privilege of navigating the Black Sea. The view of the large profits which are made here by the Frank merchants, in whose hands the whole external commerce of the Empire is at present, augments the surprise I have long felt, that the United States have not made more strenuous efforts to obtain a participation, and thoroughly disposes me to do all I can towards obtaining it.

[PRIVATE.]

*Mr English to Mr Adams, Secretary of State — Extract.*

Constantinople, }  
December 27, 1823. }

I have not been able since I have been at Constantinople to obtain copies of the capitulations subsisting between England, Sweden, or the Netherlands, and the Ottoman Porte. Indeed I could make no effectual attempt to get them without rousing sus-

picion. I can, however, assure you, sir, that the French capitulation, which I had the pleasure to forward you a translation of from Marseilles, is the pattern after which all the European powers have endeavored to form theirs, because France has always been the most favored nation in the Ottoman ports. The duties paid to the Imperial Treasury by all foreign vessels in the Ottoman empire are nearly the same, never exceeding three per cent ad valorem. In addition to this, however, there is ten per cent on the duties paid, to be rendered to the custom-house as a gratuity to its officers. European vessels pay no more, but those of the United States that trade to Smyrna pay fifteen per cent on the duties to the custom-house. I have understood that the American consul at Smyrna came to Constantinople in order to get the additional five per cent above mentioned taken off, and that the Turkish authorities replied, 'that, as commercial relations would, probably, be ere long formally established between the United States and the Porte, when this should take place, this slight additional duty would be done away, which only exists at present because the vessels of the United States have not a legal right to trade with the Sultan's dominions.' The port duties do not amount to half a dollar for a merchant ship of the largest class.

With regard to the commerce of the Ottoman empire, as connected with the interests of the United States, I venture, sir, at

present to say but little, and that under correction. The only articles, it appears to me, which the vessels of the United States could profitably bring to it, are, in my apprehension, coffee, sugar, indigo, cochineal and dollars; wheat, and, of course, flour, rice and tobacco, the empire produces in abundance. In return, it can furnish the United States drugs, gums, dried fruits, fine copper, and some articles of luxury. The Europeans carry home, besides the articles above mentioned, immense quantities of hemp, cotton, wool, and raw silk, for their manufactories, which are not, I believe, in demand in the United States. But by far the greater part of the profits derivable from a free intercourse with Turkey would consist in freight. The superiority of the American ships and sailors would give them a great advantage over most of their competitors; and it is the apprehension of this which makes most of the European powers so jealous of our obtaining a participation in the carrying trade of the Ottoman empire, of which the British, French, and Imperialists have at present almost the entire monopoly.

For thorough information with regard to the commerce of Turkey, I cannot do better than to refer you, sir, to Mr Offley, the American consul at Smyrna, whose long residence in the country, and commercial experience, amply enables him to do better justice to this subject than I can.

Very respectfully, &c, &c.

GEO. BETHUNE ENGLISH.

*Mr English to Mr Adams--Extract.*

On board the French galette, Francois and Henriette, bound from Constantinople to Smyrna, February 8, 1824.

*To the Hon. John Q. Adams, &c. &c.*

SIR: I had the honor to inform you, in my last, under date of the 27th of December, that I had received of the Captain Pasha the promise of an audience. After waiting nearly four weeks for a summons from him, I began to fear that he had forgotten me, and had taken measures with the drogoman of the Porte, to obtain an audience of the Reis Effendi, (the minister of foreign affairs,) when I received a visit from the confidential drogoman of the Captain Pasha, who informed me that his highness would give me an audience on the morrow. I went accordingly: he received me cordially, and made me sit down by his side on the sofa, and participated in the coffee, which was brought to me in ceremony. These circumstances, I considered as auspicious, as, according to the customs of the Turks, such treatment is a mark of great consideration. After the usual compliments, and some questions on his part as to my adventures since he saw me last, I informed him that, when about leaving America eight months since, to visit Constantinople *for my own pleasure*, I was requested by the Government of the United States to endeavor, if an opportunity should offer, to inform myself of the disposition of the Ottoman Porte towards my country, and whether it might be possible for the United States to form more intimate commercial relations with the Otto-

man Empire. I stated to him, that, after the many proofs of good will he had shown my countrymen at Smyrna, and to myself, I felt encouraged to ask his opinion as to the disposition of the Porte towards the United States, and whether there existed any impediments to the formal establishment of amicable and commercial relations between them and Turkey. I represented that it was difficult to imagine any cause which should make the Porte, which had so many treaties of commerce and friendship with the European nations, that had so frequently shown themselves the enemies of the empire, indifferent towards a nation which had never been the foe of the Ottomans, and was so far from bearing towards them any political or religious prejudices, that, by the laws of the country, a mussulman citizen of the United States would have precisely the same privileges as christian; a great and powerful nation, that was rapidly advancing in the path of prosperity, aggrandizing continually its population, its riches, and its strength. I concluded by referring him, in confirmation of this representation, to what he knew of the Americans, and to what he might learn from the best authority.

He replied, that, for himself, he had always been the friend of the Americans, as was well known at Smyrna; that he had respected the nation, and esteemed highly some individuals belonging to it, whom he had the pleasure to know; but that he could not immediately give me 'the opinion I had asked, till he had ascertain-

ed what were the causes that prevented the success of Mr Bradish in his attempt to negotiate with the Porte some years ago.' He requested me to come again in four days, when he would talk further upon the subject. At the expiration of that time, I went again to the Marine Arsenal, but he was then in consultation with some of the captains of the fleet. He sent, however, one of his officers to me, requesting me to excuse him for an hour, which time he desired me to employ in looking at his own frigate, on board of which he had ordered some alterations, which he wanted my opinion of.

On my return from viewing the fleet, I was summoned to the audience chamber. After some conversation relating to the ships and their armament, the Pasha told me that the cause of Mr. Bradish's failure was the influence of a certain European ambassador, (whom he did not name;) that it was his opinion that it would be difficult for the United States to negotiate a treaty at Constantinople, but he believed it might be brought about in the manner following: 'Let the Government of the United States, said he, secretly authorize the commandant of their squadron in the Mediterranean to meet me in the Archipelago, with instructions to inform me precisely what it is that the United States wish to obtain of the Sublime Porte. I will communicate this overture to the Sultan himself, who will decide as he thinks proper, either to encourage or refuse the advances of the United States. If



the Sultan should show himself favorably disposed, an arrangement advantageous to your country may probably be effected, whereas an American ambassador who should come to Constantinople to *negotiate with the Divan*, would probably find himself embarrassed by intrigues which he could neither discover nor control.'

I expressed to the Grand Admiral my perfect satisfaction, and acquiesced in what he had proposed, and announced my intention to proceed to Smyrna to communicate directly to the Government of the United States the plan proposed by him. I therefore requested him, as I considered myself under his protection at Constantinople, to obtain for me a passport. He immediately gave orders to his secretary to write a note to the proper authority at Constantinople requesting a passport for me, which I accordingly received a few days afterwards.

It only remained for me to call on the drogoman of the Porte to inform him that I had resigned my intention of addressing myself to the Reis Effendi, as, from the tenor of a conversation I had had with the Captain Pasha, I deemed it, for the present, inexpedient. I thanked him very sincerely for the politeness he had shown towards me, and his good will towards the interests of my country; and ended by taking upon me to assure him, that, in case a treaty should ever take place between the Porte and the United States, he would be handsomely remembered in the distribution of the

usual presents. This I deemed the best, and, indeed, the only way of keeping a Turkish courtier friendly to those interests which he might traverse if he pleased, as he has the ear of all the ministers, and is, indeed, the only allowed medium of communication with the Ottoman Porte in all affairs in which Franks are concerned, as I found by experience. It would have been better, however, if my impatience at the long delay of the Captain Pasha in giving me an audience had not induced me to open myself to the drogoman of the Porte: for, on the day that the confidential drogoman of the Captain Pasha presented me my passport, on my incidentally mentioning my visit of leave taking to the drogoman of the Porte, he became very fretted, and gave me to understand that 'I had compromised him and his patron.' On my demanding his meaning, he replied, 'that, if the enemies of the Captain Pasha should discover what had passed between him and me, that they would infallibly represent it to the Grand Seigneur as an intrigue carried on with the agent of a foreign power, without his knowledge, and that the consequences might be very serious.' Though in truth made sufficiently uneasy by this unexpected information, I replied that 'I had represented myself to the drogoman of the Porte, and to the Captain Pasha himself, as an individual travelling for his pleasure, and merely requested, *en passant*, by the Government of the United States to ascertain, if an opportunity of gaining such information should

offer, the disposition of the Ottoman Porte towards his country.' With regard to the plan proposed by him, I am persuaded that it would be eligible for the Government of the United States to adopt it, if they are disposed to make an effort to effect a commercial treaty with the Porte, for these reasons: 1st. It would occasion no additional expense to the United States for the commander of the American Mediterranean squadron to meet the Captain Pasha in the Archipelago, and deliver to him such written communications as they might be pleased to send. 2d. Because, should the proposed plan ultimately fail of success, neither the dignity nor the future interests of the United States in Turkey would be compromised, as the transaction would probably be unsuspected, as it would hardly be thought extraordinary for the American squadron to take a tour in the Archipelago at such a time as this, when almost all the European powers keep a strong force cruising there. 3d. Because the sending an ambassador *before* the United States knew something of the disposition of the Sultan would be accompanied with many difficulties, arising from the usual manner of transacting business of this nature with the Ottoman Porte: for, on the arrival of an ambassador from a power that has no treaty with the Sultan, the following would be the usual way of obtaining one in these degenerate days: After his audience of introduction to deliver his credentials, he must select and employ some person thoroughly ac-

quainted with the language and character of the Ottoman Porte to act as drogoman of the embassy. It is more requisite that this person should possess talents and capacity than for the ambassador himself, as he will be in fact the hinge on which all the business part of the embassy must turn, as it must all pass through his hands. After such a person is selected, he must be instructed to visit, not at first the minister of the Ottoman Porte, but their seraffas or treasurers: for, however strange, sir, the representation I am about to make may appear, it is nevertheless certainly true, that the good will of these 'hommes des affaires' must be *secured* before anything important can be effected with their patrons the ministers. The drogoman of the embassy must go to these people, and represent at large the advantage to the empire of making such or such a treaty, and must conclude his representation by giving to be understood, that, if the minister (the patron of the seraffa) will support and carry through the Divan the treaty proposed, he, the drogoman, will lodge in the hands of the seraffa of the minister, such a sum — so much for the minister, and so much for the seraffa himself, for his good offices on this occasion. When all the ministers are thus secured, the affair may be entrusted to the deliberations of the Divan, and *not before*, unless the Sultan himself is known to be propitious, when this procedure would not be so necessary. And even when all these arrangements are made, should the ambassadors of foreign

powers suspect the affair, which the presence of an ambassador would undoubtedly occasion, they would set *their* drogoman also at work to traverse his negotiations by offering *more*, if they could afford it, to frustrate the success of the new ambassador. But if, as proposed by the plan of the Captain Pasha, the Sultan himself could be made well affected, all, or the greater part of this intrigue and expense, would be unnecessary.

I am, however, far from believing that the Captain Pasha himself is disinterested in this affair, as I know that one of his reasons for proposing what is already mentioned is the hope of grasping to himself the most considerable part of the presents usual in signing a treaty with the Porte. If, however, the business be fairly and advantageously concluded through his means, I suppose that this circumstance, would be considered by the United States as perfectly indifferent.

You will perceive, sir, that this arrangement with the Captain Pasha is not exactly the same as I proposed to effect when at Washington. In fact I found, when at Constantinople, that the present was not a time for the Captain Pasha to hazard the responsibility of admitting American vessels to other ports than Smyrna without the sanction of a treaty: for, since his unsuccessful cruise, his situation has become *critical*, and obliges him to be very cautious in his conduct. I think, moreover, that, in the present posture of affairs in the East, the proposition made by him is more eligible.

[PRIVATE.]

*Mr English to Mr Adams —  
Extract.*

Washington, May 14th, 1824.

SIR: I beg leave to submit to your consideration some observations relative to the subject of the conversation I had the honor to hold with you yesterday.

Though the circumstances in which I found the Captain Pasha, when at Constantinople, made it imprudent for me to ask, and impossible for him to accord, what I hoped to obtain when I left Washington thirteen months ago, yet I think that what was proposed by him would, if followed up, *eventuate* in the more important acquisition of a commercial treaty with the Porte not a little advantageous to the United States. It appears to me that the opportunity offered by the Turkish Grand Admiral, of bringing directly to the Sultan any overtures the Government of the United States may please to make, should not be slighted, because the measure proposed by him would lead immediately to a knowledge of the disposition of the Sultan towards the United States, and thereby certify the Government of the course best to be adopted towards Turkey for the future.

A letter to the Captain Pasha, intimating to him that the Government of the United States is not insensible to the many proofs of good will he has shown towards our country, and the favor and protection he has extended to our commerce with Smyrna, might be accompanied with the suggestion that, from his own ob-



ervation, he may be aware of the high advantages which might result to the Ottoman Empire, from a free commercial intercourse between it and the United States; a representation that it would be difficult to imagine a reason which should exclude the United States, a great and flourishing nation, that has no prejudices or enmities, political or religious, against the Ottomans, from the same commercial intercourse accorded by the Sultan to European nations who have been so frequently the enemies of the Empire; concluded by a request to him to ascertain whether the Ottoman Emperor would be disposed to receive an ambassador from the United States who should be authorized to negotiate with the Porte. Such a letter would be well calculated, in my opinion, to give the Captain Pasha an opportunity to exert himself in behalf of our commercial interests in the East.

Such a letter, in my apprehension, could do no harm, while, by making the Captain Pasha aware that his friendship for our country and its commerce has not been unnoticed by the Government, would probably keep him steady to the sentiments he has hitherto expressed towards us, and encourage the hope of being ultimately *benefited* for whatever influence he may exert in bringing about a treaty advantageous to both nations. As it would, moreover, be nearly a year before this letter could be laid before the Sultan, and since the aspect of affairs in the East will probably change decisively before the expiration of that time, should the

event be favorable to Turkey, the having forwarded such a letter this summer, while their affairs are unsettled, would be a circumstance which would probably incline the Porte strongly in our favor; while, on the other hand, should their affairs become still more perplexed, there would then be an obvious and sufficient reason for the United States to defer, to a more tranquil season, any further steps for the *conclusion* of a treaty intended to be permanent.

To the Hon. J. Q. ADAMS,  
*Secretary of State.*

[SECRET.]

*Mr Adams, Secretary of State, to  
G. B. English, Esq.*

Department of State, }  
Washington, January, 3, 1825. }

SIR: By direction of the President of the United States, you are hereby authorized and required to repair forthwith to Norfolk, and embark on board the ship North Carolina, where you will place yourself under the command of Captain John Rodgers, to perform such services as he may assign to you in the execution of his duties, during the period of his absence from the United States as commander of their squadron in the Mediterranean, or until you shall receive further orders from this department.

You will particularly be required, as the opportunity may occur, to perform the office of an *interpreter*, and such other services as the instructions of Commodore Rodgers will indicate to him as expedient and proper.

Your compensation therefor will

be at the rate of two thousand dollars a year, from the commencement of the present year, till you receive notice from Commodore Rodgers, or from his successor in command, or from this department, that your services will be no longer required. The expenses of your subsistence while engaged in the service, whether on board the squadron or on shore, will be to be provided at your own charge.

I am with great respect, sir, your very humble and obedient servant.

[SECRET.]

*Mr Adams, Secretary of State, to  
Commodore John Rodgers.*

Department of State, }  
Washington, February 7, 1825. }

SIR: Mr George B. English is authorized to embark with you in the North Carolina, with a view of rendering aid to you as an *interpreter* during your service in the Mediterranean. A copy of his authority is herewith enclosed, to the end that the relations in which he will stand to you and the service assigned him, may be clearly and fully understood by you.

It is probable that, in the course of the ensuing summer, an opportunity may occur of your meeting the Turkish fleet, commanded by the Captain Pasha. This officer is represented as having long entertained favorable sentiments towards the United States. In the intercourse of civility which may arise from your meeting, it may be in your power to ascertain in what manner a treaty of com-

merce, founded upon principles of reciprocity, and by which access to the navigation of the Black sea should be secured to the commercial shipping of the United States, may be obtained. Should the Captain Pasha be disposed to point out the means, you will confidentially communicate to this department the terms of such a treaty. Should the result of your interview with the Captain Pasha be satisfactory, you are authorized to make him, at parting, a complimentary present, as may be usually given in *courtesy* to an officer of his rank, and to assure him that in the event of the conclusion of a favorable treaty, securing the above benefit to our commerce, his good offices will be duly estimated in the transaction. An essential object, however, will be to ascertain the terms upon which such a treaty may be effected.\* No particular sum of money is placed at your disposal for this purpose, but, in the event of an arrangement, by which you would be satisfied of the accomplishment of the object, funds for covering the expenses incidental to it will, in due season, be provided.

You will communicate, with every proper precaution of secrecy, the result of this measure to this department; and in the contingency of your meeting and conferring with the Captain Pasha, you will be specially careful, that neither the meeting, nor any move-

\* The treaties of Great Britain and of France with the Porte, will indicate the articles of similar character which it may be expedient to introduce into that which may be concluded with us.

ment consequent upon it, shall be made susceptible of any unfavorable operation upon the cause of the Greeks.

I am, with great respect, sir, your very humble and obedient servant.

[PRIVATE.]

*Secretary of State to Commodore Rodgers.*

Department of State, }  
6th September, 1825. }

SIR: I have the honor to transmit to you enclosed, a copy of a treaty between Turkey and France, or rather, in the language of Turkish diplomacy, of capitulations conceded by the Porte to France. Being in French, it is accompanied by a translation which has been hastily made. From a perusal of this document, you will see what has been granted to France. The President wishes to obtain similar advantages for the commerce of this country; and you were instructed by a letter from this office, under date the 7th day of February, 1825, to ascertain, through the Captain Pasha of the Turkish fleet, the probability that existed of this Government being able to procure them. It was expected that you were to sound him, not treat with him, for which neither he nor you would have powers. But the interview may possibly lead to your both being hereafter invested with powers to accomplish the object, as being a mode preferable to sending a minister to Constantinople. Our wish is, first, to trade with all the ports of Turkey, in whatever quarter of the globe situated, on the footing

of the most favored nation; secondly, to obtain a free ingress and egress through the Dardanelles to and from the Black sea; and thirdly, to be allowed to appoint consuls to reside at such ports as the interests of our commerce may require.

Possibly the Captain Pasha, who was believed to entertain friendly sentiments towards this country, may not now be in command, and may be succeeded by another not cherishing a similar disposition. In the event of such a change, it will be left to your discretion to decide whether it will be expedient or not to open the business to such successor.

I have the honor to be, your obedient servant,

H. CLAY.

[TRANSLATION.]

*Capitulations, or ancient and new treaties between the Court of France and the Ottoman Porte, renewed and augmented in the year of Jesus Christ, 1740, and of the Hegira, 1153.*

Behold what says this imperial sign, of which the power is sustained by the kindness of the eternal Dispenser of Favors, and by the multitude of the benedictions of the chief of the prophets: may health be increased to him and his descendants!

We, the Emperor of puissant emperors; the support of the grandees of the age; the distributor of crowns to the kings who are seated upon the throne of the world; the shadow of God upon the earth; the servant of the two illustrious and noble cities of Mecca and Medina, august sacred



places, origin of the faith, towards which all Mussulmens address their vows ; the master and protector of the holy Jerusalem ; the sovereign of the three grand cities, Constantinople, Adrianople, Brousse ; the master of Damascus, odour of Paradise, of Tripoli, of Syria, of Cairo, singular in its kind ; of all Arabia, of Africa, of Arakagem, of Bassora, of Lahissa, of Dilem, but, above all, of Bagdad, capital of the Caliphs ; of Bissa, of Menssoul, of Chenzoul, of Diarbeker, of Zewilhadrigi, of Erzeroum, the agreeable ; of Souvas, of Adana, of Caramania, of Kars, of Gilder, of Dewan, of the Morea, of Candie, of Cyprus, of Chio, of Bodes, of Barbary, of Ethiopia or Habeche ; of Algiers, a place of war ; of the countries, of Natolia, of Tripoli, of Barbary, of Tunis, of the Black and white seas, of the coasts of Algiers, of the kingdoms of Roumelia, of all Koardistan, of Greece, of Tartary, of Circassia, of Kabarta, of Georgia, of the noble tribes of Tartars, and of all the hordes which depend on them ; of all Bosnia, with what has been annexed ; of the Fortress of Belgrade, a place of war ; of Servia, as well as of the fortresses and castles there situated ; of the countries of Albania, called Urnanal-ik ; of all Wallachia, of Moldavia, and of the fortresses which are in its cantons ; and, besides the foregoing, many other towns and fortresses not enumerated, which have been taken and conquered, and which we possess by our imperial justice, and by our victorious power. We, who are Sultan, son of a Sultan, the Emperor Mahmoud, son of the Emper-

or Mustapha, who was son of the Emperor Mehmed, through the perfect goodness and favor of the Distributor of Kingdoms, and through the favor of him whose existence is not doubtful, sovereign of all creatures, and the refuge of the sovereigns of the most illustrious families, and the defender of the princes, who have had esteem and confidence for our Sublime Porte, which is the centre of happiness and felicity, and the asylum of those who have recourse to it.

To the most honored among the great princes of the faith of Jesus, and who has been chosen in the capacity of arbiter and mediator of the affairs of all the Christian republic, full of grandeur, of glory and of majesty, preserver of the true marks of honor and of dignity, Louis the Fifteenth, Emperor of France, and of other vast kingdoms dependant on it ; most illustrious, most honorable, our sincere and ancient friend ; of whom may the end, and the result of his enterprises, be happy.

There should have been sent to our port of felicity, a letter containing manifestations of the most perfect sincerity, of the most particular affection, candor, and rectitude, on the part of the said Emperor, who has addressed the aforesaid letter, in order to be consigned to us, to Louis Sanver, Marquis de Villeneuve, his present Counsellor of State, and his Ambassador near our port of felicity, who is the model and the support of the Christian lords, and one of the most skilful, prudent, wise, esteemed, and honored ministers, of whom may the

end be happy. We should have given our imperial consent in conformity with the permission asked of us, in order that he might be admitted even before our throne, surrounded with light and glory, and, in delivering the aforesaid letter, he has beheld our majesty, and shared in our imperial grace and favor.

The aforesaid letter, after its delivery by the said ambassador, has been translated; and its contents should have been explained to us in detail, according to the ancient usage of the Ottomans, and presented at the foot of our imperial throne, (which is as elevated as the skies,) by the most honorable Elhadgi Mehmed Pasha, our Minister General, absolute interpreter of our ordinances, the ornament of the world, and charged with the maintenance of good order among the nations, the support of the reputation and of the edifice of our empire, and of our prosperity; the firm and solid support of the columns of our happiness and our glory; the most approved Grand Vizir, lieutenant general and absolute vizir of our happy augury: may God augment and perpetuate his power and his victories!

And as the expressions of this friendly letter show a desire, on the part of his Majesty, to do as friendship requires, every honor to the conditions, agreements, and treaties stipulated and concluded from time immemorial, and inviolably observed to the present day, between our glorious ancestors, upon whom be the light of God, and the most glorious Em-

perors of France; and as the imperial capitulations, renewed in the year of the Hegira, one thousand eightyfour, in the reign of Sultan Mehmed, our august grandfather, generous and noble during his life, and happy at his death, had for object the repose, tranquillity, and protection of the ambassadors, consuls, interpreters, merchants, and other subjects of France; it is in like manner our will that, in the time of our reign of felicity, the aforesaid capitulations be renewed and confirmed. And taking into view the sincere friendship and attachment which they have ever manifested towards our sublime Ottoman house, we have also given our imperial consent that the articles which have been required, and upon which the aforesaid ambassador of France and the ministers of our Sublime Porte have conferred, as we have been informed, be therein inserted and added, it being our imperial will and desire to corroborate and increase, from day to day, the friendship subsisting, from time immemorial, between our eternal Porte and the empire of France; the aforesaid Emperor having likewise given, in the time of our reign, convincing proofs of sincere friendship; these motives, together with the desire which we feel to consolidate more and more the connection of such a friendship, and so ancient, have excited in his Imperial Majesty sentiments consonant with their desires.

And as the result which friendship ought to produce is commerce, and the security of goers

and comers, we confirm, by these presents, in their whole extent, the old and new capitulations, as well as the articles which were inserted therein at the time of the above mentioned date. It is our will, also, in order to procure more repose for merchants, and give vigor to commerce, to exempt them from the duty of masdavié, which they have paid from the most ancient period.

This article, and many others relating to commerce and the security of goers and comers, have been discussed, treated of, and adjusted, and put in a proper form during the various conferences held in relation thereto between the aforesaid ambassador, clothed with full and sufficient powers to treat upon this matter, and the persons appointed on the part of our Sublime Porte; so that when all was agreed upon and concluded, our Supreme and Absolute Vizir rendered an account thereof at our Imperial Sinap. It being our will to manifest on this occasion the esteem and regard which we entertain for the constant friendship of the Emperor of France, who at this time has made known the sincerity of his heart, therefore we have given our imperial sign, and have ordered the execution of the articles newly agreed upon and concluded. It is our will that the old and new capitulations be copied and observed exactly, word for word, at the commencement, and that the articles newly adjusted and agreed upon, be inserted as coming afterwards. It is in this order that we have agreed to the present capitulations, delivered and consigned to the hands of the said

ambassador, and of which the tenor is conceived in the following terms, by our command, the course of which indicates our absolute power: Here are inserted, word for word, the capitulations of 1604 and 1673.

Independently of accepting and confirming the present ancient capitulations as they are above set forth, and such as they were renewed during the reign of the said Emperor, our ancestor of glorious memory, the articles requested and newly adjusted and granted, have likewise been added to the old capitulations set forth and explained as follows.

ART. 1. The French visiting Jerusalem, and the priests in the church called Kamana, shall not be troubled or molested.

ART. 2. The Emperor of France being connected in friendship from ancient times with our Sublime Porte, and having never acted in an unfriendly manner, an imperial command was granted to them during the time of the late Emperor Sultan Selim, (to whom pardon has been granted, in order that he may repose in peace,) that the French might be furnished with cotton, spun cotton and Morocco leather, which are prohibited merchandise; and in consequence of their perfect sincerity and devotion to my Sublime Porte, they have been granted also, in the time of our great ancestors, (of whom may God brighten the tombs,) permission to purchase wax and prohibited leathers, without molestation from any one; and, as that is recorded in the imperial capitulation, it is confirmed to them as before.

ART. 3. There shall not be



demand, at present, from the French and their merchants, the duty on the piastres which they may bring from their country, nothing having been paid from the beginning in my empire; and the treasurers and directors of the mints shall not molest them in alleging that they wish to convert their piastres into silver.

ART. 4. French merchants, embarking on board enemy's vessels, and being peaceably occupied in their commerce, shall not be made prisoners, nor their goods confiscated contrary to noble justice, under the charge of being found in enemy's vessels; and, so long as they keep within the bounds of their duty, and are occupied in trade, without participating in the crimes of piratical vessels, they shall not be made prisoners, nor shall their goods be seized under that pretext.

ART. 5. A Frenchman having taken a cargo of provisions in an enemy's country, on board a vessel belonging to him, and being on the way to an enemy's country when he meets with Turkish vessels, his vessel shall not be captured, nor shall he be made prisoner under the charge that he was carrying provisions to the enemy.

ART. 6. If an Ottoman subject take provisions in the Turkish countries, and be captured during his voyage, he shall not be made prisoner if there be found in the vessel a number of French mercenaries.

ART. 7. Frenchmen having voluntarily bought provisions from Turkish vessels, without intending to carry them into enemy's coun-

tries, and being seized on their way to their country by Turkish vessels, shall not have their vessels captured, nor those on board made prisoners; and if there be any such French prisoners found, they shall be liberated, and their goods returned.

ART. 8. With the consent of the Emperor of France, the French merchants shall continue to pay, in the same manner, the custom-house duty on merchandise imported and exported according to the old estimate, nor shall it be valued at a higher rate.

ART. 9. Besides the goods which the French merchants may bring out for sale, when they wish to go to another port, the duty on their merchandise shall not be demanded, and they shall not be hindered from carrying them to another port.

ART. 10. The French merchants shall not be required to pay the newly established duties of karsibia, rest, bege, jansuk, kirli, nor the duty of good voyage, beyond 300 aspres.

ART. 11. When the French enter the port of the Algerine corsairs, they shall be respected, and shall be furnished with powder, lead, implements, and other articles.

As the aforesaid corsairs, when they met the French merchants, were accustomed to make them prisoners, and plunder their property, they were an hundred times forbidden to do so in the time of my great grandfather, (may he repose in peace,) but they have not obeyed, and have continued to molest them. My imperial will not consenting to this, if there

are such French prisoners, they shall be liberated, and their property entirely restored. If the corsairs do not in future render obedience, and should indulge in excesses, and a proces verbal should be drawn up against any of the said corsairs, the Beghri-erbeghi, of the place where the crime shall have been committed, shall be deprived of his place, and indemnity shall be made for the articles plundered. Many orders have already been given to them on this subject, but they have hardly paid attention to them; and if they should not this time obey my noble firman, they shall not, when they go to France, be admitted into the ports or fortresses of the Emperor of France; and, while endeavoring to repress these excesses, nothing shall be done hostile to the treaty stipulation; since the noble command, issued in the time of my ancestor, is confirmed as before, and my Imperial Majesty will receive in this matter both the defence and the complaint relative to the aforesaid corsair.

ART. 12. Permission having been given to the French from the time of my great ancestors, (may they repose in peace,) to fish for coral, and fish in the places in the Gulf of Astorgha, dependent on Algiers and Tunis; they shall, therefore, enjoy this permission, as heretofore, without being molested by any stranger.

ART. 13. The drogomans attached to the service of the ambassador shall be exempt, according to custom, from the harady, whether as tribute of the duties of kansabie, or of those of techyalizch ourfie, or known imposts.

ART. 14. When French merchants take cargoes of merchandise on board their vessels, and when they transport any Ottoman subjects into an enemy's country, those subjects shall pay wholly to their ambassadors and consuls the duties of the embassy and of the consulate without any dispute or opposition.

ART. 15. Whenever the French have a dispute among themselves with regard to a murder, or any other crime, their ambassador and consuls shall decide according to their own laws, without interference or molestation on the part of the Turkish authorities.

ART. 16. The consuls appointed for the affairs of the merchants shall not be molested during a lawsuit by being imprisoned or having their houses shut up; and when others have a suit against the consuls, the case shall be tried at Constantinople; and even though there should be produced a firman to the contrary, issued previously or subsequently to the said trial, no attention shall be paid to it, and the imperial capitulation shall be adhered to.

ART. 17. The Emperors of France having been always distinguished among the other Christian Kings for their sincerity and devotion to our predecessors, and having never violated treaties, the French ambassadors, in visiting my imperial Divan, or my grand viziers and councillors of state, shall have precedence of the ambassadors of Spain, as well as of those of the other Kings, according to custom.

ART. 18. There shall not be exacted the custom-house duty,



nor that of bay, upon such articles as trinkets, clothes, eatables and liquors, and the consuls of France shall have precedence in the ports of the Spanish consuls and those of other Kings, in the same manner as the ambassador at Constantinople.

ART. 19. The vessels of war, and other vessels belonging to the French, with their equipments, frequenting in security the ports, harbors, and others of my well kept places, haste shall be made to go to their succor in case of a tempest, if it be necessary, and they shall be aided and afforded the requisite assistance on the spot, by the crews of private vessels, or by others; and the commanders of ships of war and subaltern officers shall pay them every attention and civility, and shall furnish them with provisions for their money; and if the French vessels should be wrecked by the force of the wind, the beghiterbeghis, the cadis, as well as the other authorities, shall assist them and restore to them the articles and goods saved, without molesting them.

ART. 20. French merchants travelling peaceably by land or sea, shall enjoy every security, as well as their drogomans: and the other individuals who may come into my well preserved empire shall, in like manner, exercise their trade, after paying the consular duty thereon according to custom, and they shall not be molested during their arrival and departure by the Turkish reis, special or voluntary, nor by the Ottoman military.

ART. 21. The French mer-

chants shall not be vexed by being charged with merchandise against their will and by force.

ART. 22. When a Frenchman is a debtor, demand shall be made of the creditor, and if he be not security himself, no other shall be seized in his place; and in case he be dead, no one shall meddle with his goods or property, and they shall be given to his heir according to his testament; and in case of death without testament, they shall be consigned, with the knowledge of the consul, to his associate in the country, without any interference on the part of the berted, malgi, exchequer, or the kansam, or administrator of goods.

ART. 23. The French merchants, drogomans, and consuls, employed in trade, or others having juridical affairs concerning security, shall appear before the cadi, and legally prove and register the document and procure the hogget or juridical act; afterwards the hogget and the record will be taken into view, and the legal proceeding will be in conformity with one of these two documents: and, in default of these, false testimony only being brought forward, if the process shall have been commenced contrary to justice, as soon as it is found that there are no hoggets on the part of the cadis, and that the affair of the process is not recorded, the false proceedings shall be rejected, and the process shall not be continued contrary to justice. If any, for the purpose of making extortions, shall say 'you have injured us,' they shall be removed and hindered if they exercise oppressions contrary to no-



ble justice. If a Frenchman be in debt, or otherwise culpable during his absence, another innocent person, who is not his security, shall not be seized or molested.

ART. 24. If there be found prisoners belonging the French, their ambassadors and consuls shall assign persons or appoint agents near my Sublime Porte, in order that the affair may be settled with the owner of the prisoner, if it be asserted that the prisoner is a Frenchman. The hamy or the tribute from the French, established in my well preserved empire, shall not be exacted.

ART. 25. When there shall be sent in the place of the consuls appointed in the ports of Alexandria, Tripoli, of Syria, Algiers, and other places, persons authorized to exercise the consular functions no one shall impede them, and they shall be exempt from the duty of Techgaligh-ourphie.

ART. 26. When any one has legal proceedings with a French merchant, and they appear before the cadî, the latter shall not hear the cause if the French dromogans are not present; and shall wait until they arrive, if they are occupied with important business; but the cause shall not be delayed under the pretext that the drogomans are absent, and they shall be made to come. When the French have legal proceedings among each other, the ambassadors and consuls shall decide and pronounce according to their usages, without impediment from any one.

ART. 27. According to usage and to law the French vessels

were visited at Constantinople; and, after leaving there, were visited again before the Dardanelles, when permission was given them to depart; at present they visited also at Gallipoli, contrary to the ancient law. In future, they shall be visited according to the ancient usage before the Dardanelles, when they may depart.

ART. 28. When the ships galleys, and squadrons, which traverse the surface of the sea in my well preserved kingdoms, meet with French vessels, they shall reciprocally manifest friendship, without doing each other any harm, and shall give presents to each other voluntarily; and the French shall not be molested by being deprived by force of their instruments, their goods, their young people, their boys, or any other article.

ART. 29. In confirming that, in favor of the French, the articles written in the imperial capitulations granted to the Venitians, no one shall vex, molest, or show them enmity, contrary to my vigorous justice, and against my imperial capitulation.

ART. 30. When the above-mentioned ships of war and vessels shall come into our well preserved countries, they shall be taken care of and protected, in order that they may return sound and safe; and, if any of their goods or merchandise be pillaged, efforts shall be made to discover their people, as well as their goods and merchandise; and the delinquents, whoever they may be, shall be duly punished.

ART. 31. The beghiterbeghis,

the sanjabbeghis, and the captains, our servants, as likewise the cadis, the emirs, the special and voluntary reis, and, in general, the inhabitants of my well preserved kingdoms, in acting conformably to the most just contents of my imperial capitulation, shall not dissent from it; and those who refuse obedience to it, or violate it, shall be regarded as rebellious criminals, to whom neither time nor quarter shall be granted, and who shall be punished as an example to others. According to the capitulations granted during the noble times of the late Emperor, Sultan Solaman, to whom pardon has been granted, and of my great ancestors, of whom may God enlighten the tombs, no molestation or vexation shall be exercised contrary to what has been stipulated relative to time and quarter.

ART. 32. In the time of my great ancestors, the imperial permission was given, that a hostile nation, not having ambassadors plenipotentiary at Constantinople, might, under the French flag, frequent my well preserved kingdoms, whether by way of visit, or in order to trade; and it is so written, in capitulations granted to the French. Subsequently, such nation was absolutely forbidden to come, under any pretext, into my well preserved territories; and it was even struck out of the capitulations.

The aforesaid emperor of France, having previously sent a letter to my Sublime Court, praying that, notwithstanding the command prohibiting enemies from trading, that they should not be

disturbed in going to visit Jerusalem, as formerly: if permission be granted to the aforesaid nation to frequent my well preserved kingdoms for purposes of trade, then it shall trade again, coming and going, under the French flag. My Imperial Majesty having granted the prayer of the aforesaid Emperor of France, on account of his ancient friendship for the Sublime Porte from the time of my great ancestors until the present, a firman of high order has accordingly been issued, in order that the Christian nations, in friendship with the said Emperor of France, may not be molested or troubled during their visits to Jerusalem, which they shall visit as formerly, in all security, while keeping within the bounds of their duty.

If, after some time, it be expedient to grant the imperial permission to the aforesaid nation to frequent my well preserved dominions in order to trade, then they shall come and depart under the flag of the Emperor of France, according to the ancient mode; and they shall not in any manner be permitted to go and come under any other flag. Upon the occasion of the renewal of the imperial capitulations, well detailed and explained, existing in their possession, and granted to them formerly in the manner above mentioned, from the time of my great ancestors to the present; there has been inserted in future the foregoing articles, conformably to the noble firman in the autograph of my Imperial Majesty; and there has been added to them an article concerning the bishops and priests of the other Frank re-

ligions of whatsoever denominations, who shall not be hindered from professing their worship in the ancient places of my empire, while keeping within due bounds.

ART. 33. As the places to which visits are made are, according to the ancient usage, in the possession of the Frank priests, actually domiciliated within or without Jerusalem, and in the church called Kamana, no one shall interfere with them, by demanding imposts; and in case of legal proceedings, if they cannot be decided on the spot, they shall be sent to Constantinople.

ART. 34. The French and all their dependants going to Jerusalem, shall go and return without obstruction from any person.

ART. 35. The two churches at Galatea, which have been occupied from the most ancient times by the French jesuits and capuchins, shall still remain in their power; and moreover the church which was burned shall be rebuilt, and shall continue in possession of the capuchins, who shall not be molested; nor shall the French churches in the ports of Smyrna, Siede, Alexandria, and other ports, be molested, and no money shall be taken from them under any pretext whatever.

ART. 36. They shall not be molested when they read the gospel in the hospital of Galatea.

ART. 37. The French merchants having paid, from ancient times to the present, five per cent on merchandize imported and exported; and having, in their capacity of friends of the Sublime Porte, requested that, in the imperial capitulations delivered to

them anew, the duty may be reduced to three per cent only; these prayers having been granted, they shall pay as above, and no more shall be exacted of them; and their payments to the customs shall be made according to the valuation of coin in the Imperial Treasury, and they shall not be troubled by having more or less demanded of them.

ART. 38. The Portuguese, Sicilians, Catalans, and those of Ancona, as well as other hostile nations, not having ambassadors, consuls, and agents, at Constantinople, arriving voluntarily under the French flag, and keeping within the bounds of their duty, without committing any acts contrary to peace and good harmony, shall pay the custom-house at the same rate as the French, without being molested by any person.

ART. 39. They shall, like the English merchants, pay the duty of masdovia to the collector of that duty, whether at Constantinople or Galatea, and they shall not be molested by having more demanded of them. If the custom-house officers, in order to satisfy the customs, should value their goods higher, they shall then pay in kind instead of money, without any opposition; and when they have once paid the custom-house duty on silk and printed stuffs, payment shall not be exacted from them again; and, after paying the customs, the collectors shall deliver to them the togkercts or tickets, and they shall not be prevented from passing to another port, nor molested by having the duty demanded of them again.



ART. 40. The consuls of France, as likewise the priests, their dependents, their merchants and drogomans, may, according to the old custom, make wine for themselves in their own houses, and import it from abroad for their use, without molestation.

ART. 41. Whenever there are legal cases involving a greater sum than 4,000 aspres, they shall be adjusted at the Imperial Divan, and not elsewhere.

ART. 42. If Frenchmen are found in a place where an assassination has been committed, they shall not be troubled or molested, under pretext of a fine, if nothing can be proved against them.

ART. 43. The drogomans employed in the service of the ambassadors shall also enjoy the privileges granted to the French, as afore set forth; and, in addition to my acceptance and confirmation of this ancient capitulation, renewed during the calipheth of his aforesaid Majesty, my deceased ancestor of glorious memory, there have been concluded and inserted this time, the following articles, set forth as below.

ART. 44. Besides the prerogatives and distinctions granted by the preceding capitulations to the ambassadors and consuls of the Emperor of France, the title of Emperor having been assigned, of old, by the permanent Sublime Porte to his aforesaid Majesty, his ambassadors and consuls shall also be treated and regarded by the Sublime Porte with the honor due to that title.

ART. 45. The ambassadors and consuls of the most illustrious Emperor of France shall em-

ploy such drogomans and janissaries as they please, and no one shall do violence to them, by compelling them to employ those that do not suit them.

ART. 46. The drogomans of French origin, being the representatives of the ambassadors and consuls, when they correctly interpret what is committed to them, and perform their duties, shall not be arrested nor imprisoned, and when they commit a fault, they shall be punished by their ambassadors or consuls, and shall not be troubled by any other.

ART. 47. Fifteen persons, only, of my subjects, employed in the service of the ambassadors, shall be exempt from duties and imposts, and those shall not be molested.

ART. 48. The dependents of my Sublime Porte, whether Turks, Bayas, or any others whatever, shall not cite or compel the native French consuls, when they have drogomans, to appear personally before a tribunal, and it will be sufficient that they appear by drogomans, whom they appoint for that purpose, if the case requires it.

ART. 49. If the French consuls, or their substitutes, by order, wish to hoist their flag, according to their ancient custom, in the places of their residence, the cadis and the other authorities shall not hinder them.

ART. 50. For the security of the dwellings of the consuls, permission is granted to appoint the janissaries, solicited by them, and these janissaries shall be protected by the odabachies and the other commandants, and no recom-

pense or service shall be exacted of them for that.

ART. 51. If the consuls, drogomans, and other dependants of France, shall import in order to make wine, or import wine for their use, it is our will that whether on the entrance or conveyance, the janissary agha, the bostangi-bachi, the top-chi-bachi, the vaivides, and other officers, shall not demand any duty, and that the contents of the orders given by our predecessors, and at present by us, be adhered to.

ART. 52. If it should happen that the French consuls and merchants have any litigation with the consuls or merchants of any other christian nation, they shall be permitted, both parties consenting, to refer their causes to the ambassadors resident at the Sublime Porte; and if the plaintiff and defendant are not willing to bring these causes, which may arise among them, before the pashas, cadis, or other authorities, or the officers of customs, the latter shall not compel them to do so, in pretending to take cognizance of said causes.

ART. 53. Upon the ascertained failure of any French merchants or subjects of France, those who have demands shall be paid out of what remains of his effects; but if the creditor be not provided with some authentic title, whether from the ambassadors, the consuls, the drogomans, or some other French subject, the said ambassadors, consuls, drogomans, or other French subjects, shall not be held liable for the said debts.

ART. 54. When the corsairs, or other enemies of our Sublime Porte, shall have committed any depredation on the coasts of our empire, the French consuls and merchants shall not be disturbed or molested; and, in this respect, the contents of the firman, heretofore granted, will be adhered to. It being necessary, for the common safety, to be able to recognize the criminals denominated pirates, when the Barbary or other corsair vessels come into our harbors, our commandants and their officers shall examine, with care, the passports of the said corsairs; and the firmans issued heretofore on this subject, shall be put in execution as formerly, with this condition, that the French consuls shall examine, with care, whether the vessels which shall come into our ports, under the flag of France, are truly French; and, in conformity with the proceeding above specified, for the common safety, the said officers and consuls shall mutually advise each other, and in writing, if the case requires it, of the information which they may have obtained.

ART. 55. The Emperor of France having been, from time immemorial, in amity and good harmony with our empires; and the most illustrious Emperor of France having given his particular attention to the negotiation of peace, which has just been concluded; and as a spirit of accommodation in certain matters is a means of confirming friendship, it is our will that, with respect to the merchandise which may be shipped in the ports of France,

and imported into our port of felicity, in vessels truly French, with manifests given in the ports of France, and bearing its flag, and with respect, also, to merchandize shipped at our Sublime Porte in vessels truly French, to be conveyed to France, after they have paid the custom-house duty and the selam-etlek-resni, or the duty of good voyage, conformably to the preceding capitulations; whether these kinds of merchandize be bought or sold by others with the French, the duty of the masderic shall not, under any pretence, be exacted. This article having been granted in consideration of friendship.

ART. 56. It having been granted to the French merchants, and to the dependents of France, that they should pay to the customs upon merchandize brought from their own country into the State under our dominion, and upon those which they export from here to their country, only three per cent, although the former capitulations specified only raw cotton, spun cotton, morocco leather, wax, hides, silks, and silk stuffs, besides these articles, excepting, however, those which are prohibited, they may take cargoes of all those which they are accustomed to carry away to their country, and which are specified in the tariff sealed by the collector of the customs, on paying the import according to the imperial capitulations.

ART. 57. Conformably to the imperial capitulations, when the French merchants have paid the customs at the rate of three per cent, and according to usage,

received from the collector the tachenret, the latter, when they present it, shall be honored, and the duties shall not be demanded of them a second time. And whereas it has been represented to us that certain collectors of customs, influenced by cupidity, while appearing to demand only three per cent, have, nevertheless, in reality, demanded more; and as, in the valuation of merchandize, there is found to be an obvious difference in the different qualities of the cloths specified in the tariff of customs at Constantinople, and also in those of some parts, particularly those of Aleppo, where the merchandize specified in the tariff exceed three per cent; in order to put an end to all disputes hereafter, permission is given so to reform the tariff upon cloths imported, as that the duties shall not exceed the three per cent, according to the imperial capitulations.

The French shall be at liberty to sell the merchandize imported to such of our bayas and merchants of our empire, as they please; and they shall not be molested, nor liable to disputes on this subject, under the pretext of wishing to pay them exclusively, to others [*sous pritexte de vouloir les acheter exclusivement à d'autres.*]

ART. 58. When the fas, or caps, which the French merchants bring from France, or from Tunis, arrive at Smyrna, the collector of the customs of Smyrna always creates disputes by saying that it is he who ought to receive the custom house duties on the said caps; and it being necessa-



ry to put this article in a proper form, it is our will that, hereafter, the aforesaid collector shall not demand the duties upon the said fas, or caps, brought by the French merchants, which they do not sell at Smyrna; when they do sell them there, the duty upon the said caps shall, according to custom, be exacted by the said collector, but if the said caps be brought to Constantinople the duty shall be paid, according to custom, to the grand collector of customs.

ART. 59. If the French merchants wish to carry merchandize, not prohibited from the States of our empire, whether by land or sea, in time of peace, by the rivers of the Danube, into the States of Muscovy and Russia, and other countries, and bring them from those countries into those under the dominion of our empire, they shall not, while engaged in this trade, be obstructed without cause, provided they pay the same custom house duties, and all other duties whatsoever, as are paid by the other Frank nations.

ART. 60. Some vindictive and envious persons, for the purpose of vexing the French merchants, and disturbing their commerce contrary to the capitulations, not being able to execute their designs towards them, have assailed and disturbed, from time to time, without any right, the agents or brokers transacting business in the service of the French merchants. It is therefore our will that such brokers shall not, hereafter, be in any manner molested, and of whatever nation they may

be, the brokers employed by the said merchants, no violence shall be done to them, and they shall not be obstructed in their employment.

The Jewish nation and other persons shall have no claim to the employment of a broker; and the French merchants shall be allowed to employ such persons as they please; and, when they dismiss any one, or when their brokers die, nothing shall be exacted or claimed from those who succeed them, under the pretext of a right to a portion of the brokerage; and those who violate the tenor of this article shall be punished.

ART. 61. Although it is declared in the capitulations, that the ambassador of France and the consuls, shall receive the duty of the consulate on merchandize shipped on board the vessels of their nation, nevertheless, this article meeting with difficulties on the part of the merchants and the bayas, subjects of our empire, we ordain that all those of our merchants or bayas who ship goods on board French vessels, shall pay the consulate duty, in conformity with the capitulations, on merchandize subject to impost; if the said duty is not comprised in the contract for the freight of the said merchandize, order will be given not to permit the said merchandize to be withdrawn from the custom-house until the consular duty has been paid.

ART. 62. As the Ottoman empire abounds in fruits, it is our will that, during the abundance of dried fruits, such as figs, raisins, nuts, and other like fruits, the court

of France may send once a year, during years of abundance, two or three vessels, and purchase and take cargoes of the said fruits, paying the custom-house duties according to the capitulations; and after the vessels are freighted, they shall be suffered freely to depart.

The French vessels shall also be permitted to take salt, in the same manner as the Mussulmans take it, in the island of Cyprus, and in other places subject to our empire, without being hindered by our governors, cadis, commandants, or other officers; and it is our will that they be protected in virtue of the old capitulations renewed.

ART. 63. French merchants, and subjects of France, who shall be provided with the certificates of the ambassadors or consuls, may travel with the passports that they have taken; and, for their convenience and security, they may dress after the fashion of the country, and transact their business in our vast empire; and this sort of travellers, conducting themselves properly, shall not be troubled with the duty staratch, nor any other duty. If they have effects subject to imposts, according to the capitulations, after having paid the duty on them as usual, the pashas, cadis, and other officers, shall not obstruct their passage; and, as above set forth, passports shall be furnished to them according to the tenor of the certificates; and, with regard to their safety, every possible assistance shall be afforded to them.

ART. 64. French merchants, and those under the protection of

France, shall not pay any duties on the gold or silver coin which they may bring into our territories, nor upon that which they take out of them; nor shall they be compelled to convert their coin into coin of our empire, nor be troubled in that respect.

ART. 65. If a Frenchman, or person under the protection of France, should commit a murder, or any other crime which would require the notice of justice, the cadis of our empire, or other commandants in the place where it may have occurred, shall not, in such cases, proceed, without the presence of the ambassador or the consuls, or their substitutes; and, in order that nothing may be done contrary to justice, or to the imperial capitulations, the proceedings on both sides shall be conducted with care and regularity, and every examination and investigation shall be made.

ART. 66. In case our Imperial Treasury, or any of our subjects, should hold bills of exchange upon the French, the latter shall not be compelled to pay them, unless they should have accepted them upon presentation; and in case of a refusal to accept, neither they nor the nation shall be molested without lawful cause; but a letter of refusal only shall be exacted, in order that proceedings may be had against the drawer, and not against any other: and the ambassadors and consuls shall do all in their power to obtain payment from the drawer.

ART. 67. The French residing in the territories of our empire, married or not married, which



ever they may be, shall not be liable for the staratch.

ART. 68. If a French merchant, artisan, officer, or sailor, should become a Mussulman, all effects, except those belonging to him, found in his possession, and belonging to French subjects, shall (after the fact is proved and ascertained,) be delivered to the ambassadors and consuls, to be afterwards given to the owners; and in places where there are no consuls, they shall be delivered to persons sent by them, furnished with sufficient legal authority.

ART. 69. If a French merchant wishes to go to any place, and the ambassador or consuls have become security for what he owes, he shall not be obstructed in his journey by being called upon to pay his debts, and a suit against him, involving more than four thousand aspres, shall be sent to our Sublime Porte, according to the capitulations.

ART. 70. The officers of justice, and the officers of our Sublime Porte, shall not, without necessity, forcibly enter a house inhabited by a Frenchman; and if there be occasion to enter such house, the ambassador or consuls, in places where there are any, shall have notice of it, and the proceedings shall be effected in the presence of the persons deputed by them. If any one disobeys this regulation, he shall be punished upon conviction.

ART. 71. The cases at law which arise between the French merchants and other persons, being once adjudged, and juridically terminated by studget, it may happen that the pashas, cadis,

and other officers, shall choose to receive them again, so that there would be no security in a judgment once pronounced; and it has been represented to us, that, in a case already decided in one place, judgments have been interposed contrary to the first.

In the case above specified, when the actions or suits at law which the French may have with other persons have been once investigated, and legally terminated and closed by the studget, they shall not be tried again at the same place. If it be required that these cases be tried again, no summons shall be issued for the appearance of the parties, before giving notice of it, and the reply of the consuls to the demand made to them for information upon the affair in question shall be waited for, nor shall chavouches or tipstuffs, nor moubachirs or commissaries, be sent; and a proper time shall be appointed for taking the necessary informations, and, in case orders are issued for a re-hearing of these cases, they shall be tried and decided only at the Sublime Porte, where every case will be taken in the decision of them; and the subjects of France shall be at liberty either to appear in person, or to appoint in their stead agents duly authorized. In the actions or suits commenced by subjects of our Sublime Porte against any of the French, if the plaintiff is not provided with legal writings and with samaseks, the cause shall not be heard.

ART. 72. It has been represented to us that, in the trials at law which take place, the expenses in-



curred in summoning persons, and in the ordinary fees, are borne by the person who has right on his side, so that *avanists* who unjustly bring suits and actions not being compelled to pay the costs of them, and not being punished for bringing them, are thus tempted to renew the offence. It is our will, therefore, that, hereafter, the said costs and expenses be borne by those who have the boldness to commence, contrary to justice, legal proceedings to which they have no right. When the French, or dependants of France, commence legal proceedings against the *bajas* or dependants of our Porte, for the recovery of sums due, no more than two per cent shall be paid for the duty of *mah-kemi* or tribunal of justice, or of *moubachir*, according to what is written in the ancient capitulations, and they shall not be vexed by having more demanded of them.

ART. 73. The French ships which may enter the ports of our empire shall be received amicably, and they shall be furnished, on payment, with the necessary articles of food and drink; and the transportation, sale or purchase of such provisions shall not be hindered, nor any duties exacted.

ART. 74. When French vessels arrive in the ports, or on the coasts under the dominion of our empire, and the captains or masters of such French vessels find it necessary to caulk, careen, or otherwise refit them, the authorities shall not hinder them from being furnished, on payment, with the quantity of tallow, tar and

pitch, and the number of caulkers which they may require; and if it happen that any French vessel should unfortunately stand in need of rigging, and there shall only be given to such vessel masts, yards, anchors, rigging, sails and materials for masts, and no present shall be demanded for the said articles. As to the French vessels which shall enter the ports, the collectors of duties, the *massellims*, the *haradgis*, and others of our officers, shall not detain them under pretext of demanding the *haradg* from the passengers on board, and they shall be at liberty to carry them to the place of their destination; and if there be found on board those vessels *rayas* subject to the *haradgi*, they shall pay, according to their obligation, the said duty to the *haradgi* of the place, in order that no wrong may be done to the treasury.

ART. 75. The mussulmans or subjects of our Sublime Porte shall not be hindered from freight-ing French vessels in our empire, and shipping goods on board them to be conveyed from one port to another; and as it has been represented to us, that, from time to time, the *rayas* of our Porte who freight French vessels quit them on the passage, and dispute the payment of freight according to their agreement, if such freighters shall, without lawful cause, quit the said vessels while on their voyage, the *cadis* and other authorities shall command that the whole of the freight due to the said captains shall be paid to them according to their *temessak* or certificate.

**ART. 76.** The governors, commandants, cadis, custom-house officers, saivodes, massellims, officers, chief of towns, syndics, and others, shall not, in any particular, infringe the imperial capitulations; and if, on either side, the said capitulations are violated by an injury being done to any one, either in word or deed, then, in the same manner that the French are punished by their consuls and superiors according to the capitulations, so orders shall be given, according to the exigency of the case, to inflict punishment upon the rayas of our Porte, upon the representations made by the ambassadors and consuls after the charge is proved.

**ART. 77.** If it happen, unfortunately, that a French vessel be wrecked on the coasts of our empire, every assistance shall be furnished; and if the vessel wrecked can be refitted, or if the merchandise saved be shipped in another vessel to be transported to the place of its destination, then, upon condition that this merchandise be not sold on the spot, no duties upon it shall be demanded.

**ART. 78.** The captain pasha, the commanders of galleys, of ships, of caravels, of galliots, and of other vessels, above all, of those engaged in the trade of Alexandria, shall not detain nor molest the French ships, contrary to the tenor of the imperial capitulations, nor forcibly exact presents from them under any pretext whatever; and when French vessels, whether of war or commerce, are met with at sea, reciprocal marks of friendship shall be given according to custom.

**ART. 79.** The French vessels meeting at sea with ships of war and other ships called sultanas, although intending to render them the customary honors, have sometimes been unable to send their boat aboard as soon as they would wish, and have on this account been molested; however, provided they use their endeavors to comply with the usage on these occasions, they shall not be subject to vexations under the charge of delaying to come on board. The French vessels shall not be detained in our ports without cause; nor shall they be deprived by force of their shallops or of their seamen, particularly such of the said vessels as are laden with merchandise, for that would occasion them considerable injury, and hereafter nothing of this kind shall be permitted. The commanders of the aforesaid vessels of war, when they enter ports in which there are Frenchmen, shall establish a sufficient guard with officers, to prevent the lavents or Turkish sailors from doing any harm or wrong to the French, and the said guards shall watch over the safety of the said French and of their commerce; and if a complaint be made that the necessary measures for the safety of the said French have been neglected, and that they have suffered any wrong, the officers shall thereupon be punished; and, similarly, the French, on their part, shall not commit any unfriendly act.

**ART. 80.** Whenever it shall be necessary, on account of the miri, to freight any French vessels, the commandants and other officers commissioned to do

this, shall give notice to the ambassador and consuls, in places where there are any, who shall designate the proper vessels; and in places where there are none, the vessels shall be freighted with the full consent of those having the control of them, and all the French vessels shall not be detained under this pretence. With regard to those that are laden, they shall not be compelled to discharge their merchandise, and shall not be molested for that purpose.

ART. 81. All that is contained in the former capitulations in the article concerning the corsairs of the republics of Barbary, is confirmed by the present; and although we have always been compliant on this point, we have, nevertheless, been informed that the aforesaid corsairs, not content with vexing the French ships when they meet them at sea, insult and molest the French consuls and merchants whom they find in ports that they enter: Hereafter, when such irregular proceedings take place, the governors, commandants, and other officers of our empire, shall protect and defend the said French consuls and merchants; and, upon proof given by the ambassadors and consuls that the vessels are truly French, the corsairs shall, by every means, be prevented from making them captive, when they come within the fortresses and ports of our empire; and no vessel shall be taken under a battery.

In places of our empire, where there are governors and commandants, orders shall be given, in which they shall be made re-

sponsible for all the wrongs and damages occasioned to French vessels by the aforesaid corsairs.

ART. 82. In order to prevent the buildings at Jerusalem, in the possession of the religious dependants of France, (as specified in the ancient capitulations now renewed) from falling into ruin by the lapse of time, whenever it be necessary to repair them, there shall be granted, on the application of the ambassador of France at the Porte, legal commands for such repairs; and the cadis, commandants, and others, shall not in any way impede the execution of these commands.

It has happened that our officers, under the pretext that secret repairs have been made in these buildings, have made many visits in a year, in order to exact payment from the religious persons; for this reason, it is our will that the commandants, cadis, and other officers, who may be in those parts, shall not visit more than once a year the church called as the Holy Sepulchre, nor the other churches and places subject to their visits.

The bishops and religious persons, dependants of the Emperor of France, residing in our well preserved empire, shall be protected so long as they conform to their duties. And no one shall prevent them from following their mode of worship, according to custom, in the churches held by them, as well as in the other places which they inhabit; and when our rayas and the French visit one another, to buy or sell, or transact other business, they shall not be molested contrary to justice on account



of such intercourse. It being granted in the former capitulations that they may, in the discharge of their duty, read the gospel in the hospital of Galatea, and this article not having been observed, it is our will that hereafter they may, in the discharge of their duty, read the gospel, in the said hospital, without being molested, according to the ancient capitulations.

ART. 83. Inasmuch as the Emperor of France is the oldest friend of our empire of all other princes, it is our will that the French be treated in the most distinguished manner, and that all privileges granted to other nations shall be enjoyed also by them.

ART. 84. In all that concerns the French, their ambassadors, consuls, interpreters, merchants, artisans, and other dependants, the captains of French vessels, mercenaries and others, the religious orders, bishops and others, provided they are within the line of their duty, and do nothing contrary to friendship, or the duties of sincerity, the present capitulations, old and new, shall be observed; and it is our will that they be put in execution with respect to the four different classes above mentioned; and if any firmans should be produced contrary to the tenor of the articles of the capitulations, these firmans, whether of anterior or posterior date, shall not be put in execution, but shall be regarded as null, and shall be erased and cancelled.

ART. 85. We not only renew and confirm the articles of the old capitulations existing between our Sublime Porte and the French, but we have also found it expedient and necessary on account of

sincere friendship, to insert these new ones, which we approve in like manner. It being our will that the articles of the present imperial capitulations be observed, and that every one refrain from violating them, rigorous orders in this respect shall be sent to all the commandants and other officers of the principal ports, and of the other places necessary, in order that they may be registered in the public mehkemats.

Finally, so long as his majesty, the most illustrious Emperor of France, and his successors, shall be constant and firm in their sincerity and friendship towards our empire, and shall continue to give us proof of it, we, on the part of our Imperial Majesty, and on that of our successors, and also on that of our supreme vizirs, our honorable pashas, and all who are subject to our orders, bind ourselves by our imperial oath, the most sacred and inviolable, to maintain hereafter, and not contravene, in any particular, the present articles. Our intention being to strengthen continually the basis of sincere friendship and a good understanding, it is our will that these imperial and happy capitulations, which have been granted, be put in execution according to their noble tenor.

Written the fourth of the moon Rebioulouel, in the year of the Hegira one thousand one hundred and fiftythree, in our imperial city of Constantinople the well preserved.

Translated by me the undersigned interpreter of the Royal Government at Marseilles.

MATHIEU PREVICK.

Marseilles, 23d August, 1823.

*Commodore Rodgers to Mr Clay,  
Secretary of State — Extracts.*

U. S. Ship North Carolina, }  
Gibraltar Bay, Oct. 14, 1825. }

By my letter to you of the 31st of August last, I gave you reason to suppose that I should, in all probability, obtain an interview with the Captain Pasha of the Ottoman fleet before I left the Archipelago. In this, however, I was disappointed: for, on reaching Napoli de Romani, the present seat of the Greek Government, (for which place I sailed from Smyrna, a few days after I wrote to you,) extraordinary as it may appear, it was not known to that Government, at the time of my arrival, where he was. This, at that period, I did not consider of much consequence, however, as, had I learnt where to find him, his situation, wherever he was, would have been such as, in all probability, would have precluded a communication without giving rise to a variety of speculations and conjectures, which, however absurd they might be, it was desirable to avoid giving the slightest grounds for. Consequently, instead of making any further attempt to obtain a personal interview, I determined at once that the most prudent course left for me to adopt now would be to communicate, by writing, and which I accordingly did by forwarding to him, through the hands of Mr Offley, our consul at Smyrna, (in whose secrecy and prudence I could confide) a letter, of which the enclosed is a copy. The present Captain Pasha has hitherto been a favorite of the Sultan, and has enjoyed his con-

fidence to a greater extent perhaps than any other individual has ever done before; but such is the superstition and such the caprice of the Sultan, it is supposed, judging from the character of all who have preceded him, that, in the event of his failure to capture Missolonghi before his return to Constantinople, no excuse he will have it in his power to offer will be sufficient to save him from disgrace: for, notwithstanding he has hitherto been so far successful in all his operations against the Greeks as to secure the approbation of the Sultan, it is said that, in the present instance, when most was expected of him, he has actually done nothing, while, at the same time, Ephrim Pasha, commanding the Egyptian forces, has succeeded in every enterprise he has undertaken from the day of his first arriving in the Morea, and in a manner, too, that will appear little short of a *miracle at Constantinople*.

I have been thus particular in mentioning the situation in which the Captain Pasha now appears to be placed, in order that you may be apprized of the uncertainty of his retaining hereafter the power of furthering the wishes of our Government in securing a treaty with the Porte, affording to our merchant vessels the ingress and egress of the Black Sea; and, at the same time, to suggest for your consideration whether, in this apparent state of uncertainty, it might not be advisable to take advantage of the existing perturbed state of the political relations between the Porte and sever of the principal European

powers, particularly with England and France, to consummate such a treaty as our Government may desire. That such a one might be made at this time, I have not the least doubt; and I feel no hesitation in saying it is my confident belief that, as long as the same state of things continues at Constantinople, and we have as respectable a naval force *here* as we have at present, that any person our Government might think proper to empower to conclude such a treaty would, if aided by a judicious display of our squadron at the island of Tenedos, (near the entrance of the Dardanelles) *pending the negotiation*, meet with no difficulty whatever. And, what serves further to strengthen this belief, is the favorable impression which our squadron is known to have made on the minds of the people of Smyrna at its late visit there, from the bashaw (of three tails) down to the meanest individual, occasioned, I presume, as well by the apparent superiority of our ships over those of other nations which they have been accustomed to see, as the strict neutrality we have uniformly observed between them and the Greeks, whose respect and good will, I have reason to believe that we also possess in an equal degree at least. Indeed, in every port in the Archipelago where the squadron has been, whether among the Greeks or the Turks, we have experienced nothing but respect, kindness, and hospitality.

During our stay at Smyrna, I had ample proofs of the friendly disposition of the Captain Pasha

towards our country, and of our being greatly indebted to his influence and good offices for the uniform protection, for several years past, that our merchant vessels have enjoyed in their intercourse with that port. Permit me, sir, therefore, to say, that, in recommending that some person should be here invested with powers to conclude a treaty with the Porte, that I do not mean to be understood as intimating that I think its negotiation ought to be commenced in any other way than through him, as has already been proposed, provided he should still continue to retain the Sultan's favor.

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*Commodore Rodgers to the Captain Pasha.*

U. S. Ship North Carolina, }  
off the Island of Hydra, }  
September 20, 1825. }

I have the honor to inform you that the President of the United States of America has directed me, in the event of my having the happiness to meet you in the Archipelago, to express to you his thanks for the friendship you have always shown, and the protection you have so generously afforded to the citizens of the United States frequenting the port of Smyrna.

I have been directed, in the same friendly spirit, to communicate to your highness the confidence inspired by your proved good will towards the American nation;—the disposition of the Government of my country to establish the relations of amity and commerce between the United States and the Ottoman Empire, on the same footing they are



now enjoyed by France and England. Not having had as yet the pleasure of a personal interview, and the necessity of returning to Gibraltar with the squadron under my command, making my longer stay in the Archipelago inconvenient, I take the liberty of making you this communication, and of requesting your friendly consideration of the subject to which it relates.

It is believed in America, that nothing but the opposition and jealousy of certain European diplomatists at Constantinople, more friendly to their own interests than to those of the Ottoman Empire, have hitherto impeded the accomplishment of the wishes of the Government of the United States to enter into friendly relations with the Porte, the perfecting of which would so obviously be the means of benefiting both countries. It is indeed difficult to imagine any other cause that could make the Porte, which has so many treaties of amity and commerce with the European nations, who have so frequently shown themselves enemies to the Empire, indisposed towards a nation which has never been the enemies of the Ottomans, and which is far from bearing towards them any political or religious prejudices. A great and powerful nation, which, by the protection of the Supreme and Almighty Ruler of the Universe, is increasing in population, in strength, and in riches, in a manner unparalleled in the annals of the world; but the latter of which it never employs, however, except in way of self-defence against

the violent and unjust. Relying, therefore, on the experienced friendship of your highness for the American nation, I have, in the name of my Government, to request that you will do me the favor, if it be in your power, to ascertain, on your arrival at Constantinople, whether the Grand Seigneur would be disposed to receive an American minister, and accord to the American nation the same protection, and the same privileges in the Ottoman Empire, including the passage into and out of the Black Sea, as are already enjoyed by France and England?

Whatever reply to this communication your highness may be pleased to make, if committed to the care of David Offley, Esq. our consul at Smyrna, will be forwarded to me, and transmitted to the Government of the United States; assuring your highness, if it be in your power to obtain a reply favorable to the friendly disposition of the Government of my country, that you may rely with entire confidence upon receiving *ample* proofs of its sense of the obligations. I, with pleasure and respect, tender to your highness my best wishes for your health and prosperity.

JNO. RODGERS.

Commanding U. S. Naval Forces,  
Mediterranean.

*To his highness the CAPTAIN PASHA.*

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*Extract from a letter of Commodore Rodgers to Mr Clay.*

U. S. Ship North Carolina, }  
December 25, 1825. }

SIR: By the arrival of the Ontario from Smyrna, I have received a letter from Mr Offley,

our consul, of which I inclose a copy for your information. Mr Offley, you will perceive by the information it contains, is intimately acquainted with the policy and feelings of the Turkish Government and people; and this he has acquired by a residence of fourteen years in Smyrna; the greater part of which time, I believe, he has discharged the duties of consul; and in a manner, too, judging from the estimation in which he appears to be held by the public authorities of that place and the different European consuls as well as American merchants residing there, not only creditable to himself, but beneficially to the commercial interests of his country. As his statement so fully corroborates that contained in my letter to you on the same subject, under date the 14th of October last, I feel it unnecessary to say more at present, than that I shall be at Gibraltar with the squadron some time toward the last of March or first of April next, in readiness to execute any further commands you may see fit to honor me with.

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*Extract from a letter of Mr Offley,  
Consul of the United States at  
Smyrna, to Commodore Rogers,  
dated*

Smyrna, 30th November, 1825.

‘I have lately received a visit from the Pria Bey of the Captain Pasha, who passed through this place on his way to Constantinople. He informed me the Pasha had directed him to say how much pleasure he should have had in receiving a visit from you before your leaving these seas.

When the Capudan Pasha may return to Constantinople, appears quite uncertain; in the mean time, your letter for him remains in my possession, as I should not think proper to entrust it to be forwarded by any of the ships of war which might leave this on a visit to the Turkish fleet.

‘From the Pasha of Candia, I have received a letter, in which he requests his compliments to be given to you, and that I should inform you of the pleasure it would give him if you should make a visit to that place.

‘Considerable disappointment has been felt at Constantinople that our Government did not send out in your squadron a minister to the Porte, and as this communication was made to me in a demi-official manner, I have thought proper to communicate it to our Government. It appears to me that there is good ground for the belief, that, if a minister had been sent out, he would not have had the least difficulty in obtaining from the Porte a commercial treaty, which should have secured for us every advantage enjoyed by the most favored nation. The political condition of the Porte, together with their uncertainty of our disposition, would not have allowed them for one moment to have slighted our offers of friendship. The power from whom we may expect the greatest opposition to our obtaining a participation in the trade of the Black Sea, was, at that time, so far from having any interest at Constantinople, that the Porte was even disposed to act in every manner against their wishes and interests.

I have reason to believe it will be represented to the Divan, that our Government are equally desirous, with the Porte, to confirm and augment the friendship actually existing between the two nations, and that apprehensions that an embassy direct to Constantinople might not have that effect, has prevented their sending a minister or other diplomatic agent; that the Government of the United States could only accept of such terms as would place them on the footing of most perfect equality with any nation represented at the Porte. A failure in obtaining such conditions, would render such a mission to Constantinople unsuccessful: that such an event would be highly disagreeable to our Government, and might, instead of augmenting the existing friendly dispositions, tend to disturb them; therefore, to avoid the danger of an event which would be so disadvantageous to the two nations, our Government wished to be informed of the disposition of the Porte on this subject: that, if it was disposed to treat on the basis of placing us on terms of equality with the most favored nations, I had not the least doubt our Government would no longer delay sending a diplomatic agent to Constantinople, with full power to negotiate a treaty of friendship and commerce between the two nations. I have little doubt, in my mind, were you to see the Capudan Pasha, he might be engaged to negotiate this preliminary; and, if so, should he return to Constantinople with his influence unimpaired, would have lit-

tle difficulty in succeeding. Under this view, I am very anxious to see you return here early in the spring. I believe it would be possible to obtain from the Porte instructions to be given to the Capudan Pasha, which would authorize him to agree with you on the conditions on which a treaty should be negotiated, and in such manner as would bind his Government thereto. To obtain this, it would be necessary for an agent to go to Constantinople furnished with such documents as would prove him in possession of the confidence of our Government. It is probable, however, before such a preliminary could be obtained, which in fact would be settling the whole negotiation, that engagements should be made on our part what amount of presents should be made to the principal officers of the Porte on the termination of a treaty by an agent of our government; and here, as has ever been my opinion, the most difficult part of the negotiation rests, and where the greatest management would be required.

The passage into the Black Sea is regarded as a concession of great favor. It is, however, the only one worth either great pains or expense in obtaining, as our commerce to this country stands already on a tolerably fair footing; and, I may be allowed to add, through my unauthorized and unassisted means, that the passage into the Black Sea can be obtained on terms equally favorable with any other nation: I have no doubt, but, at what expense I am by no means equally



certain, the advantages to be derived to our commerce in participating in the trade to the Black Sea, would be immense, as might easily be shown, and well worthy any expense which might attend procuring it. It will be for the Government of the United States to determine how far they will go to obtain this advantage, and for the agent charged therewith to get it at as much less as possible. If the presents to be made, are liberal, you thereby enlist the most influential characters to your and their own personal interest, without detriment to their sovereign or country.

‘I beg to repeat to you my firm conviction that a treaty can be negotiated with the Porte, which shall place our commerce to all parts of this empire on a footing of equal respectability and advantage with any other nation, that will allow us a participation in the trade to the Black Sea, and thereby procure for our commerce such portion of the carrying trade from that rich country, as their industry and enterprise will not fail to procure for them—a trade which gives yearly employment to more than one thousand vessels, and from which we are now debarred. A consideration perhaps equally important, although the advantages would not be so immediate, would be to obtain access to the Russian empire in a quarter accessible for ten months in the year, and which would be the means, through American enterprise, of making a change in the commerce of that empire advantageous to ours. These advantages our government

can obtain by pursuing the means they have in their power.

I have the honor to be, &c.

DAVID OFFLEY,  
Con. Com. Agent, U. S.

To Com. JOHN RODGERS, &c. &c.

—  
*Capt. Rodgers to Mr Clay.*

U. S. Ship North Carolina, }  
Vourla, (Asia Minor,) July 19, 1826. }

SIR: I have the honor to inform you that I have at length had an interview with the Capudan Pasha of the Ottoman fleet; and such, judging from the distinguished manner in which he received me, and the unrestrained scope he gave to his expressions of respect and good will towards our Government and country, as ought to leave no doubt on my mind, but that the meeting will have the desired effect, and that it will hereafter prove to have been an important step towards the opening a negotiation that shall secure to the United States many important commercial advantages, which, owing to the sly, crooked policy of European ambassadors, and a host of other foreign agents, particularly, \* \* \* \* \*, they have not hitherto been permitted to enjoy.

Having learned, on my arrival in this quarter, that the Capudan Pasha's fleet, after the capture of Missilonghi, had gone to the Dardanelles, of its being still there, and that he would soon put to sea again, I considered this a favorable moment for effecting an interview, and accordingly left here on the 30th ultimo for that purpose; and, after a passage of three days, anchored before the island of Tenedos.

The second day after my arrival at that island, a division of the Turkish fleet, commanded by the Capudan Bey, consisting of two ships of the line, four frigates, and several corvettes and brigs, amounting in all to twentythree sail, passed on its way to Candia, as was then said, for the purpose of forming a junction with the Egyptian fleet, previous to proceeding against Napoli di Romania and Hydra. From this officer, I learned that the Capudan Pasha would leave the Dardanelles with the second and principal division of the fleet, in eight or ten days from that time; but, at this instant, a frigate of the Capudan Bey's division, running on a sunken rock in the passage between Tenedos and Etnis, (plains of ancient Troy,) that occasioned the loss of her rudder, brought the Capudan Pasha to Tenedos the next day; and, to this accident, is to be attributed my meeting him sooner than I otherwise should have done.

The Capudan Pasha reached Tenedos on the 5th instant, and immediately despatched his confidential drogoman to apprise me of his arrival, and of his desire to see me on shore the next day, at such hour as I *might* appoint. To this message, I sent for answer, by the same conveyance, that I would do myself the honor of waiting on him the next day at 10 o'clock, and accordingly did so at that hour, accompanied by Mr Offley, our consul for Smyrna, and Mr Geo. B. English, my deputed interpreter.

The Capudan Pasha received us in the most courteous and

friendly manner, and, after the usual ceremonies of welcome, &c had passed, I informed him through Mr Offley, who speaks Italian, and acted as interpreter on the occasion, that the President of the United States having been made sensible of his friendly disposition, and of the importance of the protection he had afforded to our commerce on these seas, had instructed me to tender his acknowledgments, and, at the same time, to express to him the hope he entertained of his, the Pasha's disposition, still further to augment and strengthen the good understanding now subsisting between the two nations. To this the Pasha replied, that, not only his own personal feelings were peculiarly friendly towards the Government and people of the United States, but that he could confidently add, that, on this subject, his sovereign, (the Sultan,) entertained sentiments similar to these he had just expressed; saying, at the same time, that it would give him great pleasure to be the means of forming such relations between his and the Government of the United States, as would be mutually advantageous.

It was now observed to the Pasha, that our Government would regret to take any measures which might possibly tend to disturb the friendly relations at present subsisting, and that, influenced by such considerations, it had delayed sending a minister to Constantinople until the President could be accurately informed of the disposition of the Porte relative to the formation of a treaty of friendship and commerce between the two na-

tions ; and here occasion was taken to explain that this information was thought the more necessary to prevent disappointment, as, in the event of an unsuccessful attempt to negotiate such a treaty, it might tend to lessen, rather than augment the existing friendship ; that, situated as the two countries were, no relations other than those of friendship and commerce could exist ; that it was a principle of the American Government not to form alliances, or to identify the political interests of the nation with those of any European power ; and, consequently, that it would be incompatible with its own dignity to avail itself, on the present occasion, of the assistance of any of the sovereigns of Europe ; and, furthermore, that any negotiation which might grow out of the present conference, the President would prefer having direct with the Porte ; that the only inquiries and observations considered necessary to be made at this time, on the part of the Government of the United States, might be comprised in a few words. It was desirous of entering into relations of friendship and commerce with the Porte, on the principle that citizens of the United States in Turkey, and Ottoman subjects in the United States, should each enjoy all the advantages of the most favored nation ; and that such, and such only, were the terms which could be accepted by the Government of the United States ; that if through his (the Capudan Pasha's) good offices, the Porte should be inclined to negotiate on these conditions, and he would

communicate such disposition to me, that I would immediately make known the same to my Government, which would, without doubt, as early as possible, send an agent to Constantinople with powers to make such a treaty. To these observations, the Pasha replied that he would immediately make known their contents to the Sultan. He said that, at this moment, in consequence of the recent changes that had taken place at Constantinople, (alluding to the changes made in their military system,) it was not probable his Government would immediately be able to take the subject into consideration ; but that, in the course of three or four months at farthest, he should return to Constantinople, and assured me he had not the least doubt but that, through his influence, he should be able to place the subject in such a train as would lead to conclusions highly satisfactory and advantageous to both parties, and that he would then communicate the result to me.

The object of our conference being now thoroughly understood by both parties, the Pasha invited me to visit him at the Hellespont, where his fleet then lay, or, otherwise, if I preferred it, to wait his arrival at Mytilene, where he said he should be in ten days. I informed him that I was desirous of visiting that island myself, and as I knew how much he would be occupied with the equipment of his fleet until he left the Dardanelles, that I preferred deferring my visit until his arrival at Mytilene. I now took leave, and re-



turned to the North Carolina; and the Capudan Pasha, the day after, left Tenedos, to join his fleet at the Hellespont. On the 9th instant, I departed from Tenedos with the squadron, and, after beating up and displaying our flag at the entrance of the Dardanelles, bore away for Mytilene, where I arrived and anchored the next day. On the 14th July, the Capudan Pasha made his appearance, and soon after anchored with his fleet, consisting of two ships of the line, seven frigates, seven corvettes, and sixteen brigs and schooners. Here, again, an interchange of civilities took place between the Turkish Grand Admiral of three tails, and my humble self; and on which occasion, it is said, that higher honors were paid to the American flag than had ever been shown to the flag of any other nation. The Pasha, on meeting here, returned the visit I had previously made him at Tenedos; and, on this occasion, I received him on board the North Carolina with the honors due to the third personage of the Ottoman Empire. After remaining on board upwards of two hours, affording himself time to be conducted over every part of the ship, which he scrutinized with peculiar attention and evident satisfaction, he now took leave of me in a very cordial manner, with many expressions of friendship and respect for the American Government and nation. On the following day, the 16th of July, accompanied by the captains of the squadron, and several other officers, I returned the visit of the Capudan Pasha.

We were received with the utmost cordiality and respect, and, on leaving his ship, his flag, then flying at the main, was struck, and another, bearing the seal of the Sultan, (which it is asserted positively was never before hoisted, except on the occasion of the Sultan's going himself on board the Turkish fleet,) was hoisted in its place, and a salute of 21 guns fired. Here the Pasha took care to have me informed, that so extraordinary an honor had never been conferred on the flag of any European power; and, at the same time, directed his drogoman to express to me his hope that I would receive it as a proof of the sincere respect which he felt for the American nation. It is proper here to mention, that, previous to this, and before leaving the Pasha's ship, he informed me that, prior to his departure from the Dardanelles, he had written the Sultan to apprize him of the wishes of the President; and, at the same time, emphatically said that I need feel no apprehension on the subject, for that I might rest assured he would bring to a favorable conclusion the business which his friendship for the United States had occasioned being committed to his care.

At the moment of the departure of the squadron, the confidential drogoman of the Capudan Pasha came on board the North Carolina with the parting compliments of his master, requesting me to accept, as a token of his (the Pasha's) personal friendship, a Turkish pipe, a shawl, two silk gown patterns, two handkerchiefs, and a small box of sweat-meats,

which he said had been put up in his own haram. The gown-patterns and handkerchiefs, he said, were the fabrics of Constantinople; and that the Pasha would be glad to receive from me, in return, samples of the manufactures of the United States. The drogoman also observed that he had been directed, by the Pasha, to inform me that he would like to be possessed of correct representations of our naval battles, of the plans of our principal cities, a general map of the United States, and of draughts of such of our ships of war as we most approved of, particularly of this ship, of our new frigates, and of the class of 3 deckers, which I informed him we had commenced building. On telling him that one ship of the class building at Philadelphia, (and of which I gave him a description,) would be quite or nearly a match for two such ships as this, he expressed great astonishment, and said that he had seen some of the best ships of England, France, and Russia, but that none of them would bear any comparison to the North Carolina.

Having now made you acquainted with the details of everything of importance, which transpired at both interviews between this distinguished Turk and myself, I will only add, that so much apparent sincerity was depicted in everything he said or did, as to leave no doubt on my mind but that he will exert his influence with the Sultan to the utmost to accomplish the promises he has made.

The success of the campaign

against Missolonghi has made him a greater favorite than ever with the Grand Seigneur; and it is said that, on his return from his present cruise, should it prove successful, that he will most probably be appointed Grand Vizir.

It is but justice to Mr Offley to say, that, owing to his knowledge of the Turkish character, habits, and manners, and the fluency with which he speaks the Italian language, I feel myself greatly indebted for the ease and convenience with which I was enabled to communicate with the Capudan Pasha.

With great respect, &c.

JNO. ROGERS.

P. S. Early in November, I shall send a vessel to Smyrna, in expectation that, by the time she reaches there, Mr Offley, our consul, will be in possession of the Capudan Pasha's promised answer to the communication I made him at Tenedos: on receipt of which, I shall lose no time in forwarding it to you. J. R.

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*Extracts of a letter from Commodore Rodgers to Mr Clay.*

United States' Ship North Carolina, }  
Malta, February 14th, 1827. }

SIR: Very much to my surprise, I have not yet received the communication of the Capudan Pasha of the Ottoman fleet, which he promised to make me on his return to Constantinople, and I know not how to account for his not having complied with his promise, unless it is to be attributed to the unfriendly reports which have lately been circulated by the agents of certain Europe-

an powers in relation to the frigate Hope, in which they have represented to the authorities of the Porte, that large quantities of arms, and naval and military stores, had been transmitted to Greece for the use of their enemies, and that this had been done with the knowledge and sanction of our Government.

I have taken pains to counteract as far as possible, the injurious effect which such reports are calculated to have on our commercial interests, and I still am induced to think that, ere long, I shall receive the Pasha's promised communication. The Pasha, not more than ten or fifteen days before the arrival of the Hope, sent me a splendid portrait of the Sultan, which he the Sultan sat for at his, the Pasha's, request, knowing at the time it was to be presented to me, and I mention this as a proof of the friendly feelings entertained by the Sultan and himself toward our Government and country, previous to the arrival of the before mentioned frigate; for, before that time, it had been acknowledged not only by the authorities of the Porte, but by every body else, that we had maintained a strictly neutral character.

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The Capudan Pasha, since his return to Constantinople, is reported to be more popular than ever, and it is said that he is to be appointed Grand Vizir; that the present Pasha of Smyrna is to be appointed Capudan Pasha.

In justice to myself, permit me, sir, to say that, if I should fail,

before my return, in executing the business which led to my communicating with the Capudan Pasha, it will not be my fault.

With the highest respect, &c.,

JOHN RODGERS.

The honorable HENRY CLAY,  
Secretary of State.

*Correspondence of Mr Offley, United States' Consul at Smyrna, with the Department of State.*

Smyrna, 25th November, 1825.

SIR: I have the honor to inform your excellency, that, since the departure of Commodore Rodgers from this place, his excellency Hassan Pasha, commanding here, has communicated to me that some disappointment has been felt by the Ottoman Porte that an ambassador has not been sent by our Government to Constantinople. I have conceived myself warranted to remark to him, that the Government of the United States was equally anxious with the Porte to augment the present friendly relations existing between the two nations. Apprehensions that, through the interference of others, an embassy to Constantinople might not have that effect, I was led to believe had hitherto prevented our Government from sending an agent, as a failure in obtaining from the Porte, for the trade of the United States, and for its citizens trading in the Empire, every and all advantages enjoyed by the most favored nation, could only be accepted; and that an unsuccessful mission would rather tend to disturb the existing friendship than to augment it. That if our Government was assured the Porte would negotiate a treaty of friendship and com-



merce on that basis, I was fully persuaded no delay would take place in sending an agent to Constantinople. The Pasha inquired if I had any instructions from my Government relative to this subject. On being informed that I had not, he expressed his opinion that our Government would not experience any difficulty in obtaining from the Porte the privileges enjoyed by the most favored nations, although he admitted those nations already in the enjoyment thereof, particularly the free passage into the Black Sea, affording employment to so large a number of vessels, would naturally use all their endeavors to prevent the Americans participating therein; yet that their influence at Constantinople was not so great as I appeared to apprehend. The replies of the Pasha to some questions made by me, induces me to suppose his observations were made from his private opinions on the subject: such evidently he wished them to be received, and not as an official communication from his Government. The well known high standing of this Pasha with his Government, and the reports he naturally will have made to it of the visit of the American squadron in this quarter, a circumstance which excited a great deal of interest, will have led to communications between them on this subject, and induces me to presume it of sufficient interest to merit the communication thereof to your excellency.

Since I had the honor last to address your department, an American merchant vessel from Boston has been at Enos, the sea-

port of Adrianople, where the captain reports me he was treated in the most friendly manner, and the duties regulated by the tariff agreed on by me with the Porte. Another vessel of Boston has been at Salinique, and although no complaints have been made to me as to personal treatment, yet there has been of the conduct of the customer, who imposed high duties on no other tariff than his own pleasure; and I regret to add that I have failed to obtain such documents relative thereto, from the parties interested, as would have enabled me to make a representation to the Government at Constantinople, thus to have used my endeavors to prevent the establishment of a precedent which may lead to disadvantageous circumstances.

The very friendly reception the American squadron met with here, I presume Commodore Rodgers will have already communicated to Government, and that he found the American trade and citizens in the enjoyment of especial favor and protection from the authorities of this place; to obtain and maintain this standing for my countrymen has subjected me for many years past, to very considerable expense; I beg permission to renew to your excellency the request already made by me to your department, whether it would not be just that my compensation should be made equal to that of other consuls established in Turkish ports?

I have the honor, &c,

DAVID OFFLEY.

*Con. Com. Agent, United States.*

His Excellency HENRY CLAY,  
*Secretary of State.*

*Extract — Mr Offley to Mr Clay.*

United States' Consulate, }  
Smyrna, 26th November, 1827. }

I have the honor to report to you, that, in the month of June last, at the request of several American merchants, I applied to the Government at Constantinople to know whether American merchant ships would be received in a friendly manner at that place, and whether the rates of duties on their cargoes would be regulated by the tariff agreed on with me for this place. The request was made particularly for one vessel from Boston, bonded for Constantinople. The person whom I charged to deliver my letter, received for answer, from the Seraskier Pasha, that I should shortly receive an answer to my application, and which, on another occasion, was repeated with the observation, that, as soon as the pressing affairs which then occupied the Porte, were finished, that I should receive an interesting communication. On the 11th instant, I received, by express from the Seraskier Pasha, a particularly friendly and complimentary letter, inviting me to visit Constantinople, as the moment was favorable for the termination of a commercial treaty between the Porte and the Government of the United States. This Seraskier Pasha was formerly Capudan Pasha, and is, beyond all doubt, the person possessing with the Sultan more influence and credit than any other member of the Divan.

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Smyrna, February 17, 1828.

SIR : I have the honor to en-

13\*

close herewith returns of the arrivals of American vessels at this port the past year, as also of their cargoes inwards and outwards, by which it appears our trade, both in number of vessels and value of their cargoes, has been larger than usual last year.

On the 4th instant, I received the enclosed letter for your excellency from Mr Navoni, of Constantinople. Why it was sent open, I do not know ; with the writer I have no acquaintance.

I had the honor to write you on the 26th Nov. last, informing you that I had received an invitation from this Government to visit Constantinople, as the moment was favorable for the termination of a commercial treaty with the Government of the United States. The Porte probably expected I was furnished with sufficient instructions to accept of their invitation, from the circumstance of my having accompanied Commodore Rodgers on his visit to the Capudan Pasha, and that the only arrangement for the regulation of American commerce in the Levant, since it has retired from English protection, was made with me. I have informed the Porte that I am not authorized to enter into any negotiations with them ; notwithstanding, I continue to receive frequent indirect communications from the Reis Effendi on that subject. Their present disposition to enter into negotiations with the United States, as I am informed, arises from a communication made to the Sultan by the former Capudan, now Seraskier Pasha, the Sultan's orders thereon, and partly also from the opinion enter-

tained by the Porte, that, if a treaty of friendship existed between two nations, they would be allowed to have vessels of war built in the United States, so to replace those destroyed at Navarino.

I enclose, herewith, accounts of the expenses of this consulate for the past year, as well as for assistance to distressed seamen. The number has been very great last year, principally seamen discharged from the Greek frigate, and those engaged by Lord Cochrane in France. Fortunately, Captain Nicholson, of the United States' ship *Ontario*, forwarded eighty of them to Mahon, after merchant captains, then in port, had refused four thousand dollars offered for their passages to the United States. Of the others, most of them came here sick, and in such a miserable state as forbid any consideration how far they had forfeited their right to assistance by having been discharged from foreign service. The balance of this account, \$358 50, and amount of that for the current expenses, 350, I have drawn for at ten days' sight, favor of B. Shenphliss, Esq., and which, as it is for money advanced by me for the public service, I respectfully request of your excellency that he will order the same to be paid without the delay which the payment of my bill last year experienced.

By the post, arrived at this moment from Constantinople, I have received the enclosed Turkish writing, which was handed by the Reis Effendi, to a Mr Issaverdens, son of my drogoman, who is a mer-

chant of this place, extensively engaged in the trade of the United States, and now at Constantinople, to which place he went for the purpose of retiring from the stores of a French merchant a considerable amount of property belonging to merchants of Boston, and which, it was feared from political circumstances, might be in danger of confiscation. The translation of the Turkish writing, also enclosed, was made by the drogoman of the Porte. The request of the Reis Effendi was, that it should be immediately sent to the American Government, and, in answer to the observation that it was without signature, replied, it was not the custom of the Porte to sign such notes. In compliance only with his request, do I forward it to you.

The Sultan, I am further informed from the representation of the Seraskier Pasha, gave orders to the Reis Effendi to conclude a treaty with the United States, and particularly to grant all privileges enjoyed by the French and English; and which order was given under the belief that some person in this country was authorized on the part of the American Government. At the time, I informed the Reis Effendi that I had not such authority, nor did not believe it possessed by any other person in this country. I remarked to him that, as agents sent by the American Government to Constantinople, hitherto appeared to have been unsuccessful, he would not be surprised should they decline sending others until they were well assured



that all difficulties in the way of negotiating a treaty of friendship and commerce, on mutually honorable and advantageous terms, were removed. That if his excellency, in consideration of the desires manifested by the Government of the United States, would inform me in an official manner of the present friendly disposition of the Sublime Porte to terminate a treaty of friendship and commerce with them on the basis of the most favored nation, that I should take great pleasure in communicating the same, and doubted not my Government would meet such friendly advances in the same way. Such a document might, I am led to believe, have been obtained, had the necessary measures been pursued. So far from feeling myself authorized to pursue them, I feel bound to explain to your excellency that my being at all mixed in affairs so foreign to the duties of the appointment I have the honor to hold under my Government, has not been optional with me. To have entirely disregarded the communications of this Government, would have been offensive, and might, under the actual circumstances of the residence of American citizens in this country, and their trade, have led to unpleasant, perhaps serious consequences. Towards your excellency, for troubling him with this long report, I can only say, such appeared to me as my duty.

I beg to make it known to your excellency that if instructions were given to the commanders of

American vessels of war on this station, that they should give convoy to American merchant vessels bound to ports not blockaded, loaded with merchandize not contraband of war, and that the flag should protect all merchandize loaded under it, a most valuable trade could thereby be obtained for American shipping in this quarter. Should even the property in the cargoes be restricted to neutrals, still good employment would frequently present for our shipping.

I have the honor to be, most respectfully, your excellency's most obedient servant.

DAVID OFFLEY,  
*Con. Com. Agent U. S.*

To the Secretary of State.

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*Translation of Turkish paper.*

The friendship and the desire which the United States of America have manifested towards the Sublime Porte, that a treaty should be concluded between the two Governments, are known to be sincere. The delay, until now, must be attributable to destiny! But the present period is favorable for such a convention. If the United States, without delay, adopt the necessary measures and dispositions for proceeding to the conclusion of a treaty of commerce suitable to the dignity of the Sublime Porte, they will find the latter well disposed in this respect.

Constantinople, 7th February, 1828, and the 21st of Regess, 1243 of the Hegira.

*Mr Offley to Mr Henry Clay.—*  
*Extract.*

Smyrna, April 22, 1828.

SIR: I had the honor to address you under date of the 17th February last, enclosing the returns of our commerce at this place the past year.

I presume it is a matter of sufficient interest to inform you that the brig *Delos*, of and from Boston, with a cargo, has lately proceeded from this place to Constantinople. At the Dardanelles, she was detained until permission from the Porte was obtained for her to proceed to that place, and which was not only granted in the most obliging manner, but sent by a Government Tartar to the Dardanelles. An attempt will be made to get permission for this vessel to proceed to the Black Sea, and which I think highly probable will be successful. Certainly this advantage for our commerce might now be obtained without difficulty, &c, &c, &c.

I have the honor to be, your excellency's most obedient servant,

DAVID OFFLEY,

*U. S. Con. Coms. Agent.*

To his Exc'y HENRY CLAY,

*Sec'y of State, &c, &c. Washington.*

[TRANSLATION.]

*Mr Navoni to Mr Clay.—Ex-*  
*tract.*

Pera, at Constantinople, Jan. 24. 1828.

The communications which I have had the honor of holding with Mr L. Bradish, and with the Porte, for the purpose of concluding a treaty of commerce between the United States and the Sultan,

are no doubt known to your excellency; and they have authorized me to profit by the favorable disposition which I have perceived in the Ottoman Government, in order to renew the communications on this subject, which have been for some time suspended. Nevertheless, I never should have considered myself authorized to enter by myself into the discussion of a matter so important, either with the Porte or with your excellency, if previous occurrences had not furnished me with a motive for doing so, particularly the degree of maturity to which I had the honor of bringing the affair under the direction, and during the residence here of Mr Bradish, who, on taking his departure, at the time when the Greek insurrection burst out, and occupied the whole attention of the Porte, authorized me, by a letter which he was pleased to address to me, and of which I had the honor to enclose a copy, to continue to solicit a categorical answer from the Porte to his last note.

Since then, I have kept this object constantly in view; and being earnestly solicited by Mr A. Franchini, counsellor of state, and first interpreter of the Russian embassy, to renew my communications with the Porte on this subject, I deemed it my duty to do so; and I have had the satisfaction of bringing the matter to the state which your excellency will perceive from the enclosed historical narrative to my conversations with the Reis Effendi, the Minister of Foreign Affairs.

The \* \* \* \* \* policy of the Porte retards, and often causes

the failure of negotiations that do not come within the old routine of their habits. They are alarmed at every appearance of innovation, particularly when agreements are to be concluded and signed with Christian powers, of whom they are generally distrustful. At the present moment, they consider themselves as released from their obligations to the preponderant powers that have influenced them — obligations which they would willingly destroy for ever; and they are particularly glad to be relieved, by the cessation of their diplomatic relations with England, from the *surveillance* which that power has exercised over them with regard to a proposed treaty with the United States of America.

If, on account of the actual state of political affairs, the Government of the United States is not willing to appoint and despatch a plenipotentiary openly, Mr Offley might, I should think, on account of the well merited consideration in which he is held by the Porte, and the confidence which his noble qualities have inspired, be charged with full powers to prosecute this business. I am even of opinion that the Porte would be pleased with this arrangement.

It is the earnest wish of the Porte to conclude a treaty, but it is my duty to state, also, that their overtures and propositions are not merely commercial.

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*Mr Luther Bradish to M. Navoni.*

SIR: Having resolved to depart, I leave to you the task of

soliciting from the Sublime Porte a decisive answer to the note which I addressed to it on the 18th of November, 1820, which you will transmit to me.

L. BRADISH.

Pera, 7th Feb. 1821.

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[TRANSLATION.]

*Summary narrative of communications with the Sublime Porte.*

In 1820, Mr. L. Bradish made his appearance in the capital of the Ottomans, and the Prince Iran Calimaki, at that time the drogoman of the Porte, inquired of me more than once whether I knew that personage, or whether I could establish an acquaintance with him in order to suggest to him, in case it was actually his intention to make propositions for the conclusion of a treaty, to address himself directly to the Sublime Porte; for the latter would be under the necessity of giving a refusal, if Mr Bradish should undertake to urge his claims through indirect channels, (meaning thereby the foreign legations.) I hastened to make the acquaintance of Mr Bradish, and acquitted myself of the commission with which I was charged; and, in consequence of the reception which these overtures met with on the part of Mr Bradish, I became the channel of communication between him and the Porte. The latter at this time manifested the most favorable dispositions, and there was reason to hope that the measures of Mr Bradish would be crowned with success. When the first symptoms of the Greek in-



surrection appeared, and were followed by a general commotion, Prince Calimaki, the drogoman of the Porte, hastened to remark to me that these occurrences would be unfavorable to the establishment of the proposed treaty, notwithstanding the wishes of the Porte; and, in fact, the most deplorable disorders and catastrophes signalized this era of miseries. Some days afterwards, the Sublime Porte made, in an official note, the same reply to Mr Bradish, assigning as a reason the distracted state of the internal affairs which occupied their serious attention, and certain conditions of things in Europe, which presented obstacles. The principal reasons were, as the Reis Effendi of that time told me personally, that the insurrection which had been discovered, and which was about to burst forth and extend itself, induced him to suspend the negotiation of the proposed treaty of commerce in order to avoid the displeasure of England, and in the hope, (foreseeing then what has since occurred,) of obtaining the good will of that power. Mr Bradish, under circumstances so unfavorable, (not on account of any disinclination on the part of the Divan, but on account of the imminently perilous state in which the Turks were placed,) concluded upon suspending his exertions; but, in doing so, addressed another note to the Porte, to which he requested a clear and decisive reply. The Porte, however, whose fears were increased by the increasing confusion in

their affairs, were unable to give such written answer, and postponed the subject until a more tranquil epoch.

Mr Bradish, wholly sensible of the importance of the motives by which the Porte was now guided, addressed me a letter, in which he authorized me to solicit the answer, described above, which he desired; but the same causes which at that time prevented the Porte from complying with the wishes of Mr Bradish, have existed until now. Nevertheless, I have continually kept in view the object which Mr Bradish proposed to himself, nor have I, during this long space of time, neglected to encourage and cultivate the wishes of the Divan as to the conclusion of this business.

About the close of the month of September last, a person of influence in state affairs sent for me, and interrogated me with respect to Mr Bradish; asked me where he then was, and whether he was in the vicinity; and whether I knew, or not, that there was a person in the Levant charged with powers to negotiate and conclude a treaty between the Porte and the United States of America. Upon replying that I was unable to answer his questions, he requested me to obtain information upon the subject. Subsequent to this interview, I learned that Mr In'ed Jong, the Danish consul at Smyrna, was charged also with the commercial affairs of the United States of America; and I addressed him a letter soliciting information.

The Porte did the same with Hassan Pasha, governor of Smyrna, who was commissioned to make a similar inquiry of Mr Offley. The answer which I received from Mr De Jong is herewith included.

During this interval, the battle of Navarino occurred—interrupted the external relations of the Porte, suspended all the current business of the interior, and gave rise to all sorts of disorders and military preservative measures.

On the 2d of January of this year, I was again sent for by the person abovementioned, to whom I communicated the reply of Mr Bradish, and promised to appear before Reis Effendi—since it was the desire of this government to adopt measures to promote the success of the negotiation. Consequently, on the first of the same month, I waited on that minister, whom I informed, very confidentially, that I was authorized by Mr Bradish to solicit an answer to his last note relative to the negotiation of a treaty with the Sublime Porte; and being aware of the facilities of the period, which had been pointed out to me, I addressed myself to him in order to ascertain whether the Porte would, under existing circumstances, open the negotiation. The minister replied to me that he was perfectly acquainted with this affair, and with all that had taken place, and that I might wait upon him again in three days, when he would be able to give me an answer; and, also, that he had various questions to put to me;

meantime, he asked me whether I knew where Mr Bradish then was? I replied that I supposed that he was in Switzerland; that I had received no news of him, but that if I should have the good fortune to receive a satisfactory reply, I would find means to transmit it speedily and directly to the Government of the United States of America. The Reis Effendi then observed, that he had heard that there was an American naval commander at Smyrna, who was supposed to be clothed with full powers, and asked me what had become of him. I replied to the Reis Effendi that I had no knowledge of this fact; but that whether it were so or not, it appeared to me that there was now an opportunity of paying a compliment to the Government of the United States by inviting them to open the negotiation of a treaty of commerce, at a time when, on account of political circumstances, they would least expect such invitation; and that, moreover, the Americans had claims upon the gratitude of the Porte on account of the policy which they have pursued with regard to the affairs of Greece; for, though not bound by any treaty, and having cause to be discontented with the refusals of the Sublime Porte, they had nevertheless observed a strict neutrality, and thus manifested their respect for law and equity—a quality which is highly prized by the Sublime Porte, and upon which it bases all its treaties. On the 8th of January, I waited again on his excellency to receive the answer which he had promised me on

the 4th of that month, and to hear the questions which he had announced his intention of asking.

He began by asking me whether I knew any person in the Levant who was authorized to negotiate and conclude a treaty with the Sublime Porte ; and whether I knew, to a certainty, that the commander of the American squadron had left Smyrna ? To the first question, I replied that I knew no such person, and that, as to the commander of the squadron, I did not know positively and officially, but I had heard, as a certainty, that he had sailed for America some days after the battle of Navarino. After those questions the Reis Effendi desired me to address a letter to the Sublime Porte, requesting, as I was authorized to do, an answer to the last note of Mr Bradish, which had been communicated through me.

On the 12th of the same month, I again waited on the Ottoman minister, with the demand which he had desired me to make in writing. Upon reading it, he expressed his satisfaction, but observed that it was not sufficiently explicit — that I did not come to the point ; and expressed a wish that there were some person charged with full powers to open the negotiation immediately. I thought it my duty to observe to his excellency that I was not authorized, and therefore could not presume to enter at all into particulars ; that I could do no more than fulfil the commission entrusted to me by Mr Bradish, and solicit a decisive answer from the Sublime Porte, whether they were dispos-

ed to conclude a treaty of commerce with the Government of the United States of America ; and that, my commission being limited to that, it was my only and sole demand. The Reis Effendi observed, that hitherto the Ottoman Government had been prevented, by many causes, from accepting the propositions made to it, particularly their relations with some of the European powers ; but as these motives no longer existed, and they were not restrained by such considerations, they had decided upon concluding a treaty with the United States of America ; and although I had declared that I was not empowered to do this, the minister obligingly said to me that, having been inspired with confidence in me, he desired me, officially, in his capacity of Minister of Foreign Affairs, to communicate to the Government of the United States the present dispositions and communications of the Porte, in order that they might send a negotiator. I immediately observed to the Reis Effendi that it would be proper to make this invitation in an official note addressed to the government itself, in order that no doubt might exist as to the intentions of the Sublime Porte, and that I would make it my business to transmit it safely and speedily. After a silence of some moments, the minister told me that, having written to Hassan Pasha, the Governor of Smyrna, in order to obtain certain information as to the alleged existence of a plenipotentiary in the Levant, it would be necessary to wait his reply ; but that, in order to lose no time, I



might, in the meanwhile, inform the Government of the United States of the actual disposition of the Porte to conclude a treaty based on reciprocal advantages; that he was aware that the Government of the United States would not be satisfied with a treaty similar to those established with Sweden and Sardinia; and that I might inform the said Government that the Porte was willing to conclude a treaty upon the plan of those with powers of the first rank; but that as the Sublime Porte ought also to derive some advantage from this, they would make proposals *for an alliance in due form, according to me*; to which I replied, that, in my opinion, this would be very difficult, from various causes and reasons growing out of the present political state of Europe; and that, moreover, since the time when I was charged by the Porte with the first overture which I had made to Mr Bradish, there had been no mention, on either side, of any other than a commercial treaty. My opinion, however, could have no influence on the measures which the Porte proposed to adopt to this end; and the answer depended altogether upon the Government of the United States; for the Porte, being able to insist upon reciprocal advantages, might test the operation of such an alliance without the actual execution of it. Then the Reis Effendi observed to me, that, under actual circumstances, the Porte could not be satisfied with the advantages which it, and the nation in general, might derive from mere trade;

but that their object would be political advantages, and the means of repairing as speedily as possible the loss which they had sustained at Navarino; and since I thought it useless to make the above proposition, the Porte desired, at least, to know whether they could procure, in the United States of America, the number of vessels that they had need of; that they were not in want of the means of building them, but that it would require a year and more to do so, whereas, in the other way, they could, in a very little time, replace those that they had lost. Not being able in any manner to enter into the discussion of matters of such high importance, I limited my answer to observing to the Reis Effendi that the development of these subjects belonged to the plenipotentiaries; but that whether for a purpose of such great political importance, or for a merely commercial purpose, it was necessary that I should obtain a written document from the Porte, in order to accelerate the opening of a negotiation. Notwithstanding the reiterated solicitations which I have made up to the present time, I have not been able to procure a written note. This is certainly not on account of any disinclination in the Porte to enter into a negotiation, but it must be attributed to that reserve, and those old, innate prejudices in the Ottomans, which prevent them from making any advances towards Christian powers, until they have been defeated in war.

NICOLAS NAVONI.

Pera, at Constantinople, 24th Jan. 1823.

## [TRANSLATION.]

*Literal and exact translation of the Convention concluded at Constantinople on the 16th October 1827, between the Minister of Foreign Affairs and the Charge d'Affaires of ———, concerning the navigation and trade of the Black Sea.*

The circumstances which led to the formation of this instrument, are these. The court of ———, which, by an ancient treaty, is in relation with the Sublime Porte, and the most high imperial court, (which God preserve to the end of ages,) having prayed and requested of the Porte that it would be pleased to grant to their merchant vessels permission to navigate and trade in the Black Sea in the same manner as the merchant vessels of other friendly powers; and the Sublime Porte, on its part, being desirous to discharge towards the magnificent (*magnifique*) King of ——— the duties of respect and esteem, and also to put in execution the seventh article of the convention recently concluded at Akerman with the court of Russia, relative to the commerce of the Black Sea: the Minister of Foreign Affairs having conferred on the subject with the judicious (or enlightened) ——— the present Charge d'Affaires of ———, and it having been agreed between them that their relations as to the trade of the Black Sea should be established and regulated in such a manner as to be productive of common and reciprocal advantages to the contracting parties, the articles undermentioned and recited were drawn up and agreed to, as follows:

ART. 1. The Sublime Porte having granted to the merchant vessels of ——— permission to pass with their flag from the White Sea into the Black Sea, laden with the productions of their own country, or with those of other States, and from the Black Sea to the White Sea with a cargo of Russian produce, henceforth all ——— vessels which shall arrive in the channel of the imperial city, shall first be visited by the inspectors of the Sublime Porte, in the same manner which is actually practised with regard to Austrian, English, and French vessels. If there should be found on board of them any merchandize prohibited in the States of the Ottoman empire, such as *terekis*, grain of all kinds, arms and other instruments of war, horses, raw cotton, spun cotton, leather, lead, wax, morocco, tallow, sheep skins, *ghien*, resin, brimstone, silk, wool, *beren-fouk*, *iste folik*, goats' hair, oil, linen fabrics, or, moreover, rayas (Ottoman subjects) passengers, sailors, or deserters, these shall be discharged and landed; after which the vessels will receive the sublime commands called *isin sefene*, necessary for them to pass free of all difficulties and obstructions, except such as may result from the state regulations of the Sublime Porte.

The purchase of vessels belonging to the Ottoman States will be prohibited, as it has been at all times.

ART. 2. In reciprocation of the profits and advantages which the ——— merchants will derive from this trade, the Sublime Porte having in an eminent degree the right of

deriving also some advantage from this concession, it has been agreed that it shall levy, in a suitable manner, a permit duty proportionate to the burthen of the vessels of ——— which shall pass as abovementioned. For this purpose, the vessels have been divided into three classes. The first, of the burthen of 16,000 kilots, the second of 11,000, and the third of 6,000. According to this classification, vessels of from one thousand to six thousand kilots, shall be considered as of six thousand; those above six thousand to eleven thousand, shall be considered of eleven thousand; and those which exceed the burthen of eleven thousand, shall be considered as of 16,000 kilots. In consequence of this arrangement, whenever these vessels shall arrive in the channel of the imperial city, and obtain permission to pass into the Black Sea, (the passage in and out being considered as forming one voyage,) they shall pay, at the time of their departure for the Black Sea, at the following rates. Those of the first class, 600 piastres; those of the second, 450 piastres; and those of the third class, 300 piastres; which duties shall be deposited in the treasury of the admiralty, to which they have been assigned; and neither party shall be permitted to create difficulties in this respect by offering a less sum, or demanding a greater.

ART. 3. Henceforth, as soon as the regulations for inspection, above established, shall have been enforced upon the vessels of ——— passing under their flag through the channel of the impe-

rial city, not only shall they be free from the useless obstructions not experienced by the vessels of other powers, but if, on entering the Port of Constantinople, on their return, they should represent that from their vessels having sprung a leak, their cargoes would be in danger of being wetted and spoiled, and that therefore they should desire to remove them on board other vessels, then, as is the practice towards the vessels of the powers abovementioned, the ——— legation shall first give information thereof to the Sublime Porte, the case will be referred to the inspectors of the custom-house and of the port; and, upon their report, the removal will be permitted by a firman, *tonghrali*, that is to say, written, and furnished with the imperial mark, and publicly executed.

ART. 4. In the same manner, as in virtue of existing conventions between the two courts, the subjects of ——— are protected in the capital, and in other well guarded places belonging to the Sublime Porte in the Black Sea, so henceforth shall they be protected in such places in the White Sea. Therefore, if it should happen that their vessels, in consequence of misfortunes at sea, should need repairs, they may have them careened and caulked, and may purchase with their money such provisions as they require, and in none of these proceedings shall they be in any manner molested without lawful cause: the court of ——— being, in like manner, bound to extend to the merchant vessels of the Sublime



Porte, which may enter their ports, the same distinctions and immunities as are enjoyed by the merchant vessels of the most favored nation. Both parties shall be careful to execute constantly all the foregoing.

[CONCLUSION.]

This instrument concerning the trade of the merchant vessels of ——— in the Black Sea, amicably drawn up and agreed to in the manner above announced in a preliminary discussion, and set forth in four articles, signed and sealed by the contracting parties, shall be accepted and ratified by the exchange of official notes, within three months, or sooner if possible.

Written during the last days of the moon of Rebiul Evoel, in the year 1213; to wit, the 16th October, 1827.

Signed in the Turkish original :  
El Mustemedi min Allah-el-Melikel vehab,

[L. s.] Esseid Mehemmed Said  
Perte, *Reissul Kintab.*

That is to say : by Esseid Mehemmed Said Perte, Grand Chancellor and Minister of Foreign Affairs, who implores the aid of God, the dispenser of favors.

An exact and literal translation :

NICOLAS NAVONI.

JOHN QUINCY ADAMS, *President of the United States of America, to all to whom these presents shall come, greeting :*

Know ye, That, reposing special trust and confidence in the integrity, prudence, and abilities of William M. Crane, a Captain in the Navy of the United States, and commanding their squadron in the Mediterranean, and of

David Offley, Consul of the said United States, at Smyrna, I have appointed them, and each of them, jointly and severally, commissioners for the United States of America, for and in their name to confer, treat, and negotiate with the Government of the Sublime Porte, or with any person or persons duly authorized on their behalf, of and concerning all matters of navigation and commerce between the United States and the Turkish dominions; with full power to conclude and sign a treaty thereupon, or to give their assent to a capitulation therefor; transmitting the same to the President of the United States for his final ratification, by and with the advice and consent of their Senate.

Given under my hand at the city of Washington, the twenty-first day of July, one thousand eight hundred and twentyeight, and of the independence of the United States the fiftythird.

JOHN QUINCY ADAMS.

By the President :

DANIEL BRENT.

Chief Clerk of the Department of State, in the absence of the Secretary. }

[SECRET AND CONFIDENTIAL.]

*Mr Adams to Commodore Crane.*

Washington, July 22, 1828.

SIR : The enclosed copy of a letter to David Offley, consul of the United States at Smyrna, will inform you of the overtures which have been made on the part of the Ottoman Porte towards the negotiation of a treaty with the United States.

I have deemed it important to the public interest that we should avail ourselves of this op-

portunity for an effort to secure to the United States the advantages of such a treaty ; and to their commerce, that of a free admission to the navigation of the Black Sea.

My confidence in your abilities, patriotism, and discretion, has induced me to commit this important trust to you, jointly with Mr Offley ; and I write you, personally, in the absence of the Secretary of State.

You will address all your despatches on this subject to the President of the United States ; but they may be enclosed under cover either to the Secretary of State or to the Secretary of the Navy. You will observe every proper precaution for keeping the whole transaction as secret as possible.

Mr Edward Wyer will be the bearer of these despatches, and will act as a secretary under your directions during the negotiation.

He is instructed to repair, in the first instance, to you ; and then, unless you should deem other arrangements expedient, he will proceed to Smyrna to Mr Offley, with such communications as you shall deem it advisable to make to him. It is believed to be most prudent that Mr Offley, if the prospect of a successful negotiation should continue fair, should first proceed to Constantinople alone ; and, upon ascertaining that a favorable treaty may be concluded, should give you as early notice as possible, and that you should then join him to complete the business. But as we are unable to foresee what may be the precise aspect and

condition of affairs at the Porte, your mode of proceeding is, in the last resort, left to your own discretion ; and, unless there should be a fair prospect of success, you will not undertake the negotiation.

A letter of credit, to the amount of twenty thousand dollars, is herewith furnished you by the Secretary of the Navy upon the Navy Agent at Gibraltar, to be used only for objects relating to this negotiation.

You will regularly advise me of every draft which you shall make on this credit, and keep an exact account of the expenditures made under this authority ; which you will transmit, certified by yourself, and supported by such vouchers as may, without exposure of secrecy, be obtained.

Your necessary expenses in the performance of the service will be allowed, and any additional compensation which Congress may hereafter sanction.

With respectful consideration,

JOHN QUINCY ADAMS.

Captain WILLIAM M. CRANE,  
Commander of the Squadron of the }  
United States in the Mediterranean }

[MARKED SECRET AND CONFIDENTIAL.]

*Mr John Quincy Adams to Mr David Offley.*

Washington, 21st July, 1828.

SIR : Your letters of the 26th November and 17th February last, to the Secretary of State, have been received ; and with the latter, a communication from Mr Nicholas Navoni, dated at Pera, at Constantinople, the 24th of January, enclosing sundry papers, among which, one in the

Turkish language, not signed, but stated to have been received from the Reis Effendi, and expressive of a willingness, on the part of the Sublime Porte, to negotiate a treaty of commerce with the United States.

A joint commission to Captain Crane, commander of the squadron of the United States in the Mediterranean, and to you, with full power for negotiating such a treaty, is herewith transmitted.

The principal objects of the United States in the negotiation of this treaty, will be, 1st. To establish, upon a firm and permanent basis, the relations of friendly and commercial intercourse between the United States and the dominions of the Ottoman Porte. 2d. To obtain for the vessels of the United States the right of admission to, and navigation upon, the black Sea.

With regard to the first, the general principle which the United States will expect to be assumed, to extend over all the stipulations of the treaty, will be, that the vessels, citizens, and subjects, of either party, shall enjoy, in the ports and dominions of the other, the privileges of the most favored nation.

It is not deemed necessary to give you instructions in further detail. Your long residence, and official station at Smyrna, having given you a full knowledge of the commercial condition and regulations of the country, you will be careful to cause to be included in the treaty every article necessary to secure protection to the persons and property of citizens of

the United States in the Turkish dominions. The capitulations of some of the European powers with the Porte are very voluminous, and provide exemptions from impositions, taxes, and even religious ordinances; which exemptions should be extended to us, either by a general article like the 83d of the capitulation of 1740, with France, or by the adoption of separate articles of the same import.

It is understood, that, in the execution of the capitulations, there have been frequent complaints by the subjects of European powers arising from incorrect translations from or into the language used by the Porte in their diplomatic acts. The capitulations are, in point of form, rather ordinances of the Porte, containing concessions to the other party, than treaties of reciprocal and correlative engagements. Of the articles to which you may agree, you will be careful to provide that the translations shall be correct, and such as will be received on both sides as of the same import.

On receiving this letter, with the accompanying commission and full power, you will act upon it only in the event that the state of affairs shall continue to be favorable for the negotiation of a treaty. It will be, probably, most advisable that you should, in the first instance, proceed to Constantinople alone, and give notice to Captain Crane to join you there, when you shall have ascertained the practicability of an early and satisfactory issue to the objects of the mission.



In the event of the conclusion of a treaty, for the necessary disbursements connected with it, including the presents customary and indispensable, an authority is herewith given to Captain Crane to draw upon the Navy Agent at Gibraltar. Acquainted as you are with the principles upon which the Government of the United States is founded and administered, you will observe the utmost practicable economy in the expenditure of money, keeping it within the bounds of urgent necessity. Your compensation for this service, additional to the payment of your expenses, will be such as Congress, by a future appropriation, may sanction.

In the absence of the Secretary of State, I have thought proper to address you this letter. It is very desirable that the negotiation should be brought to a speedy conclusion, and that its result, if successful, should be communicated in season to be acted upon at the next session of the Senate of the United States.

It will be understood that the treaty which you are authorized to negotiate will extend only to objects of commerce and navigation, and must, in no respect, interfere with the neutral obligations of the United States, or with any of their existing treaties with other nations.

Mr Edward Wyer, the bearer of this communication, is authorized to act as your Secretary, and, in the event of the negotiation of a treaty, will be a suitable messenger to bring it to the United States.

As the success of this measure

may depend upon the secrecy with which it will be managed, you will use every proper precaution for observing it.

I am, sir, with respectful consideration,

JOHN QUINCY ADAMS.

[SECRET AND CONFIDENTIAL.]

*Mr Adams to Mr Southard.*

Washington, 23d July, 1828.

SIR: A sum of twenty thousand dollars from the contingent expenses of foreign intercourse will be placed at your disposal, as a fund to be remitted to the Navy Agent of the United States at Gibraltar, and you will, by a secret instruction to Captain William M. Crane, commander of the squadron of the U. S. in the Mediterranean, authorize him to draw upon the said agent to an amount not exceeding that sum in the performance of services, and to defray the necessary expenses incurred under the authority of my letter to him dated the 22d instant. You will direct him to keep an exact and separate *secret* account of all his expenses under this authority, and to transmit the same in duplicates to the President of the United States, under a blank cover addressed to the Secretary of the Navy, and you will, yourself, keep a secret separate account of this fund, and of all the expenditures under it, to be settled under my certificate at the Treasury.

I have further to request you to give secret instructions to Captain Parker of the United States' ship *Fairfield*, to receive on board of the ship, as a passenger, Ed-

ward Wyer, bearer of despatches to the Commander of the United States' squadron in the Mediterranean. The expenses of Mr Wyer's subsistence on board to be at his own charge.

You will please to furnish me, from time to time, with copies of all your instructions and other papers from the Navy Department relating to this subject.

With respectful consideration,

JOHN QUINCY ADAMS.

SAMUEL L. SOUTHARD,  
Secretary of the Navy.

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[SECRET AND CONFIDENTIAL.]

*Mr Adams to Capt Crane and  
Mr Offley.*

Washington, 24th July, 1828.

SIRS: Mr Edward Wyer is placed under the directions and orders of Captain Crane, with a view to his acting as your Secretary in the negotiation with which you are charged, in which event he will, of course, be under your joint direction; or, severally, of either of you, as circumstances may require. His compensation is at the rate of two thousand dollars a year, to commence this day. A copy of his authority is herewith enclosed for your information. Captain Crane will, from the funds placed at his disposal, make payment to Mr Wyer on account of his compensation, taking his receipts in duplicate, and making deduction of one thousand dollars, which he receives here in advance.

Mr Navoni having been the medium of communications from the Turkish Government, and having expressed a wish to be employed by the Government of

the United States as an interpreter, you will so employ him, or not; as you, in your direction, shall deem advisable.

I should wish that a suitable acknowledgment should be made to him for the voluntary service that he has performed, but how far it may be proper to employ him in confidential trust, is referred to your more advised judgment. Your friend,

JOHN QUINCY ADAMS.

Captain WILLIAM M. CRANE, and  
DAVID OFFLEY, *Con. U. S., Smyrna.*

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*Mr Offley to the President.*

Constantinople, 31st Jan. 1829.

SIR: The despatch you did me the honor to address me under date of the 21st July, enclosing a commission for Commodore Crane and myself to negotiate a treaty with the Ottoman Porte, was received at Smyrna on the 14th November. In pursuance with your instructions, I arrived in this city on the 1st December, and having informed the Reis Effendi of my arrival, I received a complimentary message from him, with a desire to see me at the Porte on the following day. My visit being one of ceremony, our conversation was general, during which, however, I obtained from him an acknowledgment that the unsigned note in the Turkish language which you had received was wrote by him. As to the object of my mission, he observed that he was not aware of any difficulties which would prevent its successful termination: expressing a desire to see me

again in a few days, we separated. In the expectation of his taking some measures to bring on the negotiation, I waited until the 8th ultimo, when I addressed him a note, copy of which I enclose. On the 14th, I received a message inviting me to an interview at the Porte on the following day, together with the observation that, before presenting my note to the Sultan, he wished to learn what advantages I had to propose to this Government as an inducement for them to grant the advantages and privileges demanded. During the interview, I pointed out to the Reis Effendi the advantage which would result to the Porte by the extension of our commerce to all parts of the Ottoman dominions, the establishment of their subjects in our dominions, and the advantages, in every point of view, which would result from employing their vessels and subjects in a distant commerce. His excellency replied that the only advantage offered by me was the privilege of trading to our dominions, a privilege that he presumed would not be refused at this time in recompense for the facilities granted by the Porte to the American commerce; that the advantages offered were distant and illusive; that those asked by us were immediate and of consequence, such as the right of trading in all the ports of the empire on the same terms as the most favored and ancient allies of the Porte — privileges which had been granted at different times, and frequently for important political considerations and concessions, and which would require an alteration in the

tariff of duties now paid by us, an alteration which would give to our commerce an immediate and annual advantage of consequence, as well as the right of passage to and from the Black sea; that my propositions were not those of reciprocity, but, on the contrary, entirely in our favor; but that, if for concessions made to us we were willing to make equivalent ones, that no difficulty would exist to prevent the immediate and successful termination of my mission; that he had on all occasions held the same language to the unofficial persons who had conversed with him on this subject; and that he observed with great regret that a report thereof had not been made to the American Government, and that his note, forwarded without an explanation, might make it appear that he had given an intimation, and held out prospects, which were deceptive; and, on this subject, expressed himself with much warmth. I observed to him that, at the time alluded to, I had heard that a present of a ship or ships of war had been mentioned by him; that the reply made was, that the Porte might be allowed to have them built in the United States at their expense; and that after such conversation was made known to me, I requested, if such others occurred, that he might be informed that my Government would not consent to purchase the friendship of any nation: he said it was not a question of selling or purchasing friendship, but one of obtaining advantages in exchange for those required. I remarked that the person to whom he alluded was un-



authorized and unknown to my Government, and that I was surprised that, without even a shadow of authority from them, that his excellency should have reposed so much reliance on him as he appeared to have done : he replied that he now perceived he had been the dupe.

I observed to his excellency that my presence here was entirely owing to his invitation, and from the representations made to me on this subject by Husref Mehemet Pacha, and which had been communicated to my Government ; that, laying aside this weighty consideration for the moment, I now had the honor to renew to him the propositions I was authorized by my Government to make, and requested to observe to him, that, so far from being authorized to purchase a treaty, that I was not inclined or instructed to press him on the subject ; that my Government had concluded treaties with the nations I enumerated ; that, on the same terms of perfect equality in every respect, they were ready to treat with the Sublime Porte. He observed, in reply, that all those nations had treaties with the Porte for equal considerations ; they were now ready to treat with us, and to grant greater privileges than enjoyed by most of them. In answer to my remark that it was not the intention of my Government to accept of advantages, privileges, or consideration, inferior to those of the most favored nation, he observed that probably an investigation of what was the privileges granted by my Government to the most favored nation, and

what was, in like case, granted by the Porte, would offer as little reciprocity as any other part of my demands ; that he regretted much the turn the subject had taken ; that it was expected by all the Ottoman ministers that a treaty would have been by this time concluded ; and that he felt no little embarrassment that such expectations were entertained by every member of the Divan, excepting the Reis Effendi, and perhaps one other minister. I believe myself to be perfectly well informed, and that at the time my note of the 8th December was submitted to the Divan, the Reis Effendi was reminded that, at the time the former Capudan, now Serasquier Pacha, was authorized to invite a negotiation on the part of the American Government, that the expectation was that they might allow the Porte to have ships of war built in the United States at their cost and expense, but not that the Americans were to present them to the Porte. On separating, the Reis Effendi requested that I should keep the subject under consideration, as he should do ; and that, if through the influence of Hushren Mehemet Serasquier Pacha, or any other means I might possess, I could obtain an order for him to proceed with the negotiation, he could assure me it would be to him highly pleasing : the proposition to keep the subject under consideration I assented to, but assured his excellency I was no way disposed to use any indirect means to obtain the object of my mission. His excellency concluded by the expression of his wishes, in the

most friendly manner, that some expedient should be found to terminate the negotiation in a manner agreeable and advantageous to both Governments. An illness of the Reis Effendi, which prevented his appearing at the Porte, for several days, prevented, also, my having any communication with him until the 25th ultimo, when, understanding he was at the Porte, I sent a message to him, requesting, as soon as his convenience would permit, that I might be furnished with an answer to my note of the 8th ultimo, and also expressing my desire to have an interview with him. The reply I received was, that his absence from the Porte for several days had accumulated business on him to such a degree, that he was, and should be, for some days, exceedingly occupied; that he feared if I remained with the same sentiments with which we parted on the last interview, that one at this moment would probably not be attended with any advantage, and, without any intimation to him which might have occasioned the remark, observed that he was not making difficulties with a view to his private advantage, and that to any such offers he should not even reply. It therefore appears that if the Reis Effendi ever did entertain the favorable disposition manifested by his note, that the same no longer exists. Some time previous to the date thereof, an inquiry was made of Mr Navoni by the first drogoman of the Russian mission, whether any person then in the Levant was authorized by the American Government to treat with the Porte.

On his reply that he was not aware of any such person, he was requested to call on the Reis Effendi. This inquiry was made immediately on the return of the Russian minister from a conference with the Reis Effendi, at which conference the concession was made by the Porte, in conformity with the treaty of Ackerman, that the vessels of Denmark, Naples, and Spain, should enjoy the right of passage to the Black Sea. The treaty for which, although signed by the ministers for the respective powers, was negotiated by the minister of Russia: it is, therefore, highly probable that the disposition shown by the Reis Effendi was occasioned by the interference of the Russian minister. When Mr Navoni waited on the Reis Effendi, the same inquiries were made as to the presence of an authorized agent of the American Government, and whether Mr Bradish had not left him some 'kind or sort of authority?' where the American Commodore was, as they understood he was authorized? that the Porte was entirely disposed to conclude a treaty with the United States, and requested Mr Navoni to make the necessary inquiries. At that time there appeared a perfect willingness, and even anxiety, on their part, and that without any question of presents. At the same time, Husam Mehemet Serasquier Pacha wrote me, and, without inquiring whether I had the necessary authority, invited me to come immediately here, as the moment was favorable for the conclusion of a treaty. This invitation to me I now learn was

made with the knowledge and consent of the Divan. Shortly after the battle of Navarino took place, when Mr Navoni observed a change in the language of the Reis Effendi, although he still professed to be desirous for the conclusion of a treaty, it was then for the first time, that mention was made of presents of ships of war. The unofficial person alluded to by the Reis Effendi, was a Mr Issaverdens, merchant of Smyrna, largely engaged in the commerce with the United States, and whose visit to this place was occasioned by his desire to retire merchandise belonging to citizens of the United States from the stores of a French merchant, and which at that time was apprehended was in danger of confiscation, and which affair introduced him to the Reis Effendi. He denies having ever given such an idea to the Reis Effendi; that it was his excellency himself who said he could have a present of ships of war from the American Government by giving them a treaty equal or superior to that of any other nation. Had the affair ended here, it would be natural to suppose the change of circumstances produced by the battle of Navarino had also produced a change in his excellency's disposition on this subject. It was, however, after this period that his note was given by himself to Mr Issaverdens to be forwarded to me, with the request that I should forward it to my Government. I observed freely to his excellency the difficulty I had in believing that such extraordinary promises, made by a person so entirely unauthorized,

could have been confided in by his excellency, as that, in such case, some allusion would have been made to so material a condition in his note. It is to be remarked, that, at the time the note was given, the Russian minister still remained at Constantinople, and hopes existed that their differences would be amicably adjusted. Since I have been in this place, the negotiations with France and England have been pursued with activity, and some communications have taken place with Russia. \* \* \*

I should immediately after the communication of the Reis Effendi of the 25th ultimo, have demanded my passports, but for the indirect means used by persons high in authority, and members of the Divan, to induce me to delay the same, particularly the Serasquier Pacha, who, among other reasons to induce us so to do, assured me of the favorable disposition of the Porte to conclude the treaty with us; that my difference with the Reis Effendi was entirely owing to a misunderstanding; that it must be evident to me that, at this moment, the Porte was constantly engaged day and night with the negotiations with France and England, but that in a few days they would occupy themselves with the objects of my mission, and earnestly invited me not only to delay my departure, but also to induce Commodore Crane to remain a few days longer at Smyrna, when he could assure me of a successful termination of my mission. Unfortunately, all offi-



cial communications from me have to be made to the Reis Effendi, in whom I do not find that amicable disposition which would be agreeable. All those with other ministers are unofficial, and although some have assured me, whenever the subject was presented to the Divan, they should speak favorably thereon, but as it was a question relating to the department of the Reis Effendi, it could only be proposed by his excellency for discussion. I observed, at this moment there exists great jealousy among the ministers, and extreme caution in speaking on the subject; that free as they may be to discuss it when presented to them by the Reis Effendi, on other occasions they are not equally so. \* \*

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Even more so, is Russia supposed to favor it, and therefore the success or failure of my mission would appear to depend much on the result of the present negotiations with the European powers, on which subject the difference of opinion among the ministers of the Porte is publicly spoken of, and it is probable that measures of a pacific tendency will be begun by a change in the person of the Reis Effendi, the probability of which has been more than hinted to me as a reason to delay my departure. Considering, however, that I do not find on the part of the authority with whom we should have to treat such disposition as would make it proper to invite Commodore Crane to join me here, and entirely uncertain when such a moment may arrive, I presented to the Reis Effendi, on the 25th instant, a

note, copy of which I enclose, under certain circumstances which I presumed exist, demanding my passports. The following day, I received a message from him requesting me to send my drogoman to him, to whom he represented that he was then ready to conclude a treaty with me, but that some advantages must be given to the Porte; that, as to the number of vessels or an equivalent, it was a subject which would admit of discussion; that such condition need not be inserted in the treaty, but could exist as a separate agreement; that, if, however, I was determined on the demand of my passports, he requested I would address him a note simply with that demand, as mine of the 25th implied a want of good faith on the part of the Porte, which he could not admit. His excellency being absent from the Porte, on the 26th, the following day I sent him a message stating that it was neither the quantity, quality, or value of his demands, which presented the difficulty; that neither had I the authority or disposition to form a treaty on any other basis than that of perfect equality and reciprocity of advantages in every point of view. Perceiving such a disposition did not exist on his part, I renewed my demand for passports, and, as his excellency had pointed out the mode and manner in which they were to be obtained, I, for that reason, avail thereof, without permitting myself to make any observations thereon. On my drogoman, presenting himself to the Reis Effendi, he was received in a manner particularly concil-

iant, with the observation that, being much engaged, and expecting to see him, he had authorized the drogoman of the Porte to receive his message, and also to make him a communication. My message being delivered, the drogoman of the Porte replied that the Reis Effendi wished the demand of passports not to be made, but rather that I should present him a note renewing the proposition for a treaty, and setting forth advantages in any point of view which would result to the Porte; requesting my drogoman to take a copy of a writing wrote by the Reis Effendi, inquiring of me what treatment merited a person who, by his intrigues, falsehoods, and vain words, had been the principal cause of a sort of misunderstanding between two Governments, and which falsehoods had caused them to neglect each other? This I have received in the light of an apology from the Reis Effendi, and demonstrative of a *changé* of opinion, the more so, as I am convinced it is an unjust attempt to throw blame on a person of respectability, who accompanied M. Issavardens in his visits to the Porte. Either the Reis Effendi has been extremely credulous, or a more offensive appellation applies to his conduct. As my mission here is to negotiate a treaty with the Porte, and not to discuss minor points with the Reis Effendi, I accepted of his proposition, and have addressed him a note, stating the advantages which have resulted to the Porte from our commerce, and of the probability of their

augmentation by the conclusion of a treaty.

February 28, 1829.

Since the foregoing date, I have had daily communication with the Reis Effendi; the questions of presents of ships of war, or the equivalent, has been abandoned; our discussions have related to the duties to be paid by American commerce. It is truly stated by the Reis Effendi, that since the formation of the tariff with other nations, particularly with France, in the year 1816, that the price of merchandise has so much augmented, that, instead of the duty being three per cent as stipulated by the treaty, it now, on an average, amounts to little more than one per cent; that these tariffs will expire the next and following year, when they will be renewed in such a manner as to make the duty three per cent on the value. The great change in the price of merchandise has been occasioned by, in most instances, an equal change in the value of the Turkish coins. My answers to his different propositions have been, that it was perfectly indifferent to us what the duty was, provided it was the same as paid by other nations in treaty with the Porte. The last proposition was, that we should pay a duty of five per cent on the valuations of the French tariff; that American vessels, passing to the Black sea, should pay, as stipulated in the treaty with Sweden, five hundred Turkish piastres, equal, at this time, to 37 dollars on each vessel. I enclose a statement of what the duty thus proposed would be on

the actual value of such merchandise as is particularly interesting to our commerce.

The Reis Effendi appearing determined to adhere to the demand of two thirds more duty than paid by any other nation in treaty with the Porte, I demanded my passports, and which were not delivered until after several days' delay, after the receipt of which, I have thought it proper to address him a note, copy of which I enclose. Since my demand of passports, which necessarily was communicated to the Divan, I have been informed, and have reason to believe correctly, that the Ottoman ministers, generally, were urgent in the opinion that a treaty should at this time be completed. What may have occasioned the conduct pursued by the Reis Effendi, remains matter of conjecture: there are some reasons to believe that he entertains the opinion that my presence here may be useful to him in the present negotiations with England; certainly he has endeavored much to prevail on me to remain here until after the fete of Biaram, in April next, stating that, the near approach of the Ramazan, did not leave him sufficiently at leisure, refusing, however, to subscribe to the conditions on which a treaty after that period should be concluded, although verbally assuring me that it should then be done to my satisfaction. It is also matter of conjecture, founded, however, on some circumstances which have come to my knowledge, that one of the foreign ministers, resident here, or persons belonging to his lega-

tion, have induced him to believe that means could be found to negotiate a treaty on more favorable terms than either my instructions or disposition would admit: if this conjecture is well founded, your excellency will be informed thereof. I am of opinion, that the disposition evinced by the Porte in their note forwarded to the Secretary of State, was occasioned by their then intention of fulfilling the stipulations of the treaty of Ackerman; that, until such inducement shall again occur, the payment of a sum of money, or payments on the passage of each vessel, as exists in the treaties with Denmark, Sweden, Naples, and Spain, negotiated by the Russian ambassador, the Porte will not grant the right of passage to the Black Sea.

That, as respects the trade to their dominions, they are disposed to encourage it. Professing, however, to see no other advantages to them than those resulting from the receipts of the custom's duty; they are desirous to augment their present exceedingly low rate of duties, and have wished that the negotiation with us should assist in leading to that result, showing a particular desire to make their advantages equally as apparant as real. Thus, to state in a treaty that we should pay a duty of five per cent, while in other treaties and capitulations the duties have been fixed at three per cent; willing, at the same time, so to regulate the estimate of the value of merchandise, that the duties would not, on an average, amount to two per cent on the actual value; not



agreeing that the article of a treaty which should refer to the duties, should merely state to be paid according to the tariff annexed, to be regulated according to their own proposition, except on such articles as, by the existing tariffs, the duties amount actually to three per cent, in which case, to leave them as at present; on such conditions, taking into consideration that the difference would not average half per cent on our trade, and would only exist until the formation of new tariffs with other nations, I should have been of opinion not to forego the advantages which would otherwise result to our commerce from a treaty with the Porte, other considerations prevent the acceptance of a treaty stipulating in express terms that our commerce should pay two thirds more duty than that of any other nation in treaty with the Porte.

I shall immediately proceed to Smyrna, where I shall have the advantage of consulting with Commodore Crane, and presume, should the Porte manifest a desire to renew the negotiation, and are willing to establish the basis of a treaty consistent with your instructions, in such case it is your desire that we should proceed therewith.

Since my stay in this place, three of our merchant vessels have arrived here, and have been received in the most friendly manner.

It will be matter of great satisfaction to me to learn that my procedure in the negotiation your excellency has been pleased, in the first instance, to confide to me, meets your approbation.

I have the honor to be, with great respect, your excellency's most obedient servant,

DAVID OFFLEY.

To his Excell'y JOHN QUINCY ADAMS,  
President of the United States.

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*Mr Offley to the Reis Effendi.*

Pera, 8th December, 1829.

The undersigned has the honor to reiterate to his excellency, the Reis Effendi, the communication he had the honor to make personally to him on the third instant.

On the receipt, by his excellency, the President of the United States of America, of the friendly and acceptable overtures made by his excellency, the Reis Effendi, to the American Government, of the willingness, on the part of the Sublime Porte, to negotiate a treaty of commerce with the United States, he has commissioned the commander in chief of the United States' naval forces in the Mediterranean, and the undersigned, jointly and severally, as commissioners for the United States of America, in their name to confer, treat, and negotiate with the Sublime Porte, or with such person or persons authorized on their behalf, of and concerning all matters of navigation and commerce between the Ottoman dominions and the United States, with full power to conclude and sign a treaty thereupon, which shall establish, upon a firm and permanent basis, the relations of friendly and commercial interests between the dominion of the Ottoman Porte and the United States, and to obtain for the vessels of the United States the right

of admission to, and of navigating upon, the Black Sea.

The principles on which the Government of the United States have acted in regulating her commercial intercourse with other friendly powers, are those which they should wish to prevail in any negotiations with the Sublime Porte, and which would secure to the subjects and citizens of either power, in the dominions of the other, all the advantages and privileges of the most favored nation. The undersigned flatters himself that his excellency, the Reis Effendi, will appreciate such liberal and friendly disposition on the part of his Government; principles which, the undersigned believes, would tend greatly to augment the commercial and friendly relations between the two nations.

The undersigned begs to offer to his excellency, the Reis Effendi, the assurance of his great consideration.

DAVID OFFLEY.

To his Excellency the REIS EFFENDI.

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*Mr Offley to the Reis Effendi.*

Pera, January 25, 1829.

The undersigned, commissioner of the Government of the United States of America, had the honor, on the 8th ultimo, to address a note to his excellency, the Reis Effendi, informing his excellency of the powers entrusted to him by his Government for the conclusion of a treaty of commerce between the Sublime Porte and the United

States. The undersigned, in the conversation he had the honor to have with his excellency on the 15th ultimo, did not find that the disposition of his excellency, on that subject, was such as his Government had expected from the overtures made by his excellency to them in the latter part of the year 1827, and which had induced them to suppose that a willingness existed on the part of the Sublime Porte, to negotiate such a treaty, on a basis equally honorable and advantageous. The undersigned would have been glad to have received an official answer to his note: as his excellency has not honored him therewith, he is obliged, for the want thereof, to presume what his excellency's sentiments are relative to its contents from his verbal communication of the 15th ultimo; and which, he regrets, does not afford a probability that his excellency is disposed to commence a negotiation on the basis which the instructions to the undersigned would allow him to admit. Presuming, therefore, that his longer stay in this capital will not tend to the termination of a negotiation, which his Government had supposed was equally desired by the two Governments, it only remains for him to ask of his excellency the necessary passports for him to leave this place.

The undersigned requests to renew to his excellency the assurance of his great consideration.

DAVID OFFLEY.

*Tariff of Duties at 5 per cent on the Valuations of the French Tariff.*

Merchandise particularly important to American commerce.	Present value.	Quantity.	Duty in aspres.	Per cent duty on present value.	Per cent duty on present value as paid by French and others.
Coffee . . .	3 ps.	oke . .	62 $\frac{2}{3}$ . .	1,85 per ct.	1,11 per cent.
White sugar .	200	kintal .	350 . .	1,50 . .	87 $\frac{1}{2}$ "
Brown " . .	150	" . .	200 . .	1,11 . .	66 $\frac{2}{3}$ "
Rum . . .	2	oke . .	162 $\frac{2}{3}$ . .	7 . .	4,20 "
Pepper . . .	2	" . .	11 $\frac{2}{3}$ . .	5 . .	3, "
Indigo . . .	70	" . .	82 $\frac{2}{3}$ . .	1 . .	60 "
Cotton goods	35 ar. yd.	piece . .	133 $\frac{1}{3}$ . .	3,10 . .	1,75 "
Martin skins .	12	" . .	41 $\frac{2}{3}$ . .	3, . .	2, "
Minx . . .	7	" . .	33 $\frac{1}{3}$ . .	4,50 . .	2,50 "
Fox . . .	13	" . .	42 . .	2,66 . .	1,66 "
Value ps.	494	pays duty	918 aspres	equal to ac	tual value 1,54 pr. ct.
Sponges . . .	50 aug's	oke . .	23 . .	40 per ct.	24 $\frac{2}{100}$ per cent.
Figs . . .	40	kintal .	75 . .	1,50 . .	90 "
Galls . . .	360	" . .	750 . .	1,75 . .	1,05 "
Gum adraganth	10	oke . .	12 . .	1, . .	60 "
Oil roses . .	4	metical	24 . .	5, . .	3, "
Camel's hair	25	oke . .	43 . .	1,50 . .	90 "
Wool . . .	100 arays.	kintal .	67 . .	0,50 . .	30 "
Opium . . .	100	oke . .	110 . .	1, . .	60 "
Sultana raisins	80	kintal .	131 . .	1,33 . .	80 "
Red " . .	40	" . .	97 . .	2, . .	1,20 "
Skamonie . .	600	5 okes .	582 . .	75 . .	45 "
Value ps.	1,409	pays duty	1,914 aspres,	equal to ac	tual value 1,36 pr. ct.

On coffee there is a town duty or bediate of 15 aspres per oke : originally this duty was paid by the purchaser. This being found inconvenient to all parties, the importer agreed to pay it on arrival ; the same on sheep's wool, which pays 360 aspres per kintal ; adding the 15 aspres to make the whole duty asked 6 $\frac{02}{100}$  per cent. French and others pay 5 $\frac{30}{100}$  per cent. on wool, 3 $\frac{3}{60}$  per kintal, 3 $\frac{1}{2}$ , 3 $\frac{30}{100}$ .

In November, 1816, the date of the French tariff, the Spanish dollar was worth 5 $\frac{3}{4}$  prs. its present value, 13 $\frac{1}{2}$  to 14 prs. exchange on London, was 27 a 28 prs. the present exchange 64 a 65 prs. The prices of merchandize, when not operated on by other causes, gradually rise in proportion to the depreciation of the Turkish coins, the duty remaining stationary, has reduced its per centum value very low :

120 aspens equal to one piastre, or 1,620 aspres, at this time, equals one Spanish dollar.

The oke equals 2 $\frac{78}{100}$  lbs.

The kintal, 126 lbs.



*Messrs Crane and Offley to the President.*

Smyrna, March 17, 1829.

SIR: We have the honor to enclose a communication from Mr Offley, under date of Constantinople, 31st January and 28th February past. From the result of his negotiations with the Ottoman Porte, it does not appear that at this moment a commercial treaty can be formed with them on conditions such as your instructions would authorize us to accept of. Immediately before the departure of Mr Offley from Constantinople, he received a message from the Reis Effendi, stating that he requested to remind him of his promise to return to Constantinople after the Biaram, which was a proposition made by the Reis Effendi, but not a promise on his part. Several circumstances, by no means unlikely to happen, may induce the Porte, after the holidays, to make overtures to renew the negotiation. Should such occur, and the correspondence which would result therefrom establish the basis of a treaty conformable to your instructions, we presume it to be your desire that we should accept of the same.

We have the honor to be, with great respect, your excellency's most obedient servants,

W. M. CRANE,  
DAVID OFFLEY.

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*Mr Offley to the Reis Effendi.*

Pera, February 28, 1829.

The undersigned commissioner on the part of the Government of the U. States of America, commissioned in consequence of the invitation of the Sublime Porte, and fur-

nished with full powers, by his excellency the President, to negotiate and conclude a treaty of friendship and commerce between the Ottoman Porte and the United States, before leaving Constantinople, desirous to make known to his excellency the Reis Effendi his regret at the failure of his mission, and which the undersigned attributes to the unfavorable disposition of the Sublime Porte, as manifested by his excellency the Reis Effendi, to conclude a treaty of friendship and commerce with his Government, on the principles that the citizens and subjects of each party should enjoy, in the ports and dominions of the other, all the privileges granted to the most favored nation. On the contrary, the propositions of his excellency the Reis Effendi, were such, that the citizens of the United States trading to this empire would have been placed under conditions less favorable than the subjects of every other power in treaty with the Porte, even of her rayah subjects called Barrataiers — conditions, the instructions of the undersigned would no way permit him to accept, and which he believes to be the cause of the failure of the negotiation. He desires, therefore, thus to expose the same to his excellency, to prevent any future misunderstanding on the subject. In the same view, the undersigned requests to make known to his excellency, that, after his departure from this capital, no person will remain authorized, on the part of his Government, to enter into discussions, or to make any engagements whatever on their behalf.

The undersigned has the honor to offer to his excellency, the Reis Effendi, the expression of his great consideration.

DAVID OFFLEY.

*Mr Offley to the President.*

Smyrna, 21st of March, 1829.

SIR: I have received from Mr Navoni a report of his interview with the Reis Effendi for the purpose of delivering my note of the 28th ultimo, on the reception of which he observed 'that he had only consented to my departure from Constantinople under the full confidence of my returning immediately after the Biaram; that he regarded the negotiation as adjourned, not as broken off, and that it was so understood by the Ottoman Government; that if the Porte had not the intention of concluding the treaty, they should have acted in a different manner towards the American commerce. Have you seen, he observed, any change in our conduct toward the Americans? I trust not. You will not neglect to report to Mr Offley all that I now mention to you.'

On consultation with Commodore Crane, before his departure from this, we have determined, should the Reis Effendi, after the Biaram, address me on the subject of our negotiations, and that, in a correspondence with him, the basis of a treaty, such as pointed out in your instructions, can be established, that I shall return to Constantinople, despatching a vessel at the same time to advise the Commodore thereof.

Great preparations are making

for the ensuing campaign: attention will be paid to its progress and probable results, the which, possibly, might render the renewal of the negotiation inexpedient.

I have the honor to be, with great respect, your excellency's most obedient servant,

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

Constantinople, }  
17th February, 1829. }

DEAR SIR: The question of presents to this Government being abandoned, I am now in discussion relative to the duties.

My argument is, no matter what the duty is, provided we pay no more than the most favored nation.

That of the Reis Effendi is, that their tariff of duties being nearly expired, when renewed, the duty will be higher than what he now proposes for us, and which is, that we should pay a duty of five per cent on the valuation of the existing French tariff, on which terms he was now ready to sign the basis of a treaty, and which you will observe in the statement I enclose, with the exception of a few articles, the duty will not amount to 3 per cent, particularly on the exportations, which, with the exception of one article, does not amount to two per cent.

This proposition I have refused, with the observation, that, if the Porte was fully determined to persist therein, that a continuation of the negotiation was useless.

This morning I have no answer

from the Reis Effendi. I believe myself to be perfectly well informed of the discussion on this subject among the ministers of the Porte, and, although some are warm in our favor, there are others whose dispositions appear to have been influenced by some of the foreign agents here, all of whom appear to regard our success as extremely detrimental to their interests. I am so excessively fatigued with the procrastination, that I am exceedingly anxious to see it end one way or other.

On many articles, the duty is so very low, I should, for my part, agree to some augmentation, if on others a reduction was made, and no mention in the treaty of the per centum, but refer to the tariff as annexed to the treaty. I apprehend the wish more for appearances, than real advantages, so as to form a precedent for others.

With great consideration and esteem, dear sir, your obedient servant,

DAVID OFFLEY.

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*Tariff of Duties calculated on the Valuation of the French Tariff at 5 per cent.*

IMPORTATIONS.

Coffee	3 per oke,	6 $\frac{2}{3}$ piastres, equal to	1.83 per cent.
W. sugar,	200 kintal,	350 " "	1.50 "
Brown do.	150 "	200 " "	1.12 $\frac{1}{2}$ "
Rum,	2 per oke,	16 $\frac{2}{3}$ " "	7 "
Pepper,	2 "	11 $\frac{2}{3}$ " "	5 "
Indigo,	70 "	82 $\frac{2}{3}$ " "	1 "
Cotton goods,	35 "	133 $\frac{1}{3}$ " "	3.10 "
Cassia,	6 "	50 " "	7 "
Martins,	12 "	41 $\frac{2}{3}$ " "	3 "
Minx,	7 "	33 $\frac{1}{2}$ " "	4.50 "
Fox,	13 "	42 " "	2.66 $\frac{2}{3}$ "

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Value, 500 ps.

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967 aspres, equal to 1 $\frac{58}{100}$  per cent.

EXPORTATIONS.

Sponges,	50 per kintal,	23 aspres, equal to	0 $\frac{40}{100}$ per cent.
Figs,	40 "	75 " "	1.50 "
Galls,	360 "	750 " "	1.75 "
Adraganth,	10 per oke,	12 " "	1 "
Oil of roses,	4 per metical,	24 " "	5 "
Camel's hair,	25 per oke,	43 " "	1.50 "
Wool,	100 kintal,	67 " "	0.50 "



Opium,	100 per oke,	110 aspres, equal to 1	per cent.
Sultanas,	80 per kintal,	131 “ “	1.33 “
Raisins,	40 “	97 “ “	2 “
Scammony,	600 per 5 okes,	582 “ “	.75 “

There is a bediate or town duty on coffee of 15 aspres per oke, and which originally was paid by the purchaser : that being found inconvenient to all parties, the importer agreed to pay the same. It is paid equally by all nations, and it is not proposed to augment it. This amounts, on the present low price of coffee, to 4 per cent.

The same on sheep's wool, 360 aspres per kintal, equal to 3 per cent on the price of average qualities.

The French tariff, which is equally advantageous for us with any other, was made November, 1816, and will expire in November next year, when it will be augmented so as to make their duty 3 per cent on the actual value, and which is the tenor of their treaty. At the time the present tariff was made, the Spanish dollar was worth pr.  $5\frac{3}{4}$ ; it is now at nearly 14 prs. and the price of merchandize and exchanges has followed generally the deterioration of the Turkish coins, while the duties have remained stationary. To us, the important article of coffee has not followed this augmentation, owing to other causes : the same remark is to be made of rum, pepper, and furs. The exports here, more generally, kept pace with the change of value in the Turkish coins ; oil of roses excepted, which was at that time worth 7 to 10.

You will observe, although I have calculated the duty of the French valuation, still the duties do not amount to more than 1 a  $1\frac{1}{2}$  per cent, on the real value.

*Mr Offley to Commodore Crane.*

Constantinople, }  
10th January, 1829. }

DEAR SIR : Since the date of my last, the arrival at this place of couriers and diplomatic agents from Russia, France, and England, have so much occupied the ministers of the Porte, that, so far from being able to see any of them, it has been difficult even to know where they were to be found.

Exceedingly anxious as I am to bring our affairs to a decision, it is not in that situation which would authorize me to bring it to

the only one which depends exclusively on me.

That the Porte is disposed to conclude a treaty with us, I have some reasons to believe ; at least, that the greater part of the Ottoman ministers are in favor of such a measure.

A few days past, I received a message from the Serasquier Pacha, who is regarded as the second personage in this empire, and to whom I had it insinuated that I was about to leave this place, that I should by no means think of so doing ; that, at the moment, he was like a bird perched on a

tree, difficult to be known where he would next be found, but that the first moment he could call his own, he would let me know. Under this and many other considerations of the kind, I cannot take on myself to decide the negotiation by a demand of my passports.

Was it not for the circumstances mentioned in the beginning of this letter, I would not suffer myself to be put off any longer. They, however, in my opinion, form a legitimate reason for so doing. I must therefore continue for some days longer in the exercise of a patience almost exhausted.

I have received yours of the 1st and 3d instants, with the enclosure of the letter of Mr Secretary Southard, the which I now return to you. The presents of greatest value are those made by ministers, &c., on their presentation to the Sultan. Those will be considerations for our Government, in the event of a successful termination of our mission.

The pretensions now are for a valuable consideration to this Government for the advantages asked of them, and which they contend, are not to be found in the reciprocity offered. On this subject, they have already so frequently changed their ground, that I am not entirely without hopes, that such inadmissible pretensions will be abandoned, and which appears to be the only hindrance to our complete success.

With great respect and regard, dear sir, your most obedient servant,

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

Constantinople, }  
27th January, 1829. }

DEAR SIR: Our affairs here remaining as when I wrote you last, and receiving no official encouragement that my longer stay would ensure success to the objects of my mission, I addressed a note to the Reis Effendi on the 25th instant, and, under the supposition that he was not disposed to negotiate a treaty with us on the conditions which our instructions would admit, I demanded my passports. Having sent for my drogoman, he sent me a message, stating that he was ready to conclude a treaty with me at that moment, but that some advantages, in exchange for those demanded by me, must be given to the Porte; that the quantity and quality of them was a matter which would admit of discussion; but that if I was determined to the demand of my passports, he requested me to address him a note simply with that demand; that my note of the 25th contained an implied want of good faith on the part of the Porte, which he could not admit. My drogoman is now at the Porte, to renew the only offers I am authorized or should wish to make; and unless he finds the disposition of the Reis Effendi changed, he is then to say that my object is now to obtain my passports.

I therefore addressed to him a note in the form requested, and which the drogoman has with him to use as need may be. The Danube is detained by bad weather. I shall be much pleased if I

am to leave here, as I expect to embark on board her. The roads must be exceedingly bad ; I shall, therefore, return to Smyrna by sea, there being, as I understand, several vessels to leave in the course of the week. I shall leave this letter open until the last moment, in hopes to inform you of the result.

The post from Vienna has not yet arrived : it is momentarily expected, and will depart the following day for Smyrna, by which time I think there is no doubt you will learn something positive.

With great respect and consideration, dear sir, your most obedient servant,

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

27th January, 1829.

DEAR SIR : I have only one moment to say, since I wrote this morning, our affairs appear to have taken such a turn as will bring them to a favorable decision immediately.

My note demanding passports was not received, and I am invited in place thereof, to state to the Reis Effendi the advantages which the Porte will have in forming commercial relations with us ; that neither presents, vessels of war, or their equivalents, are necessary.

That I should show some advantages to result to the Porte from the treaty. This document I shall immediately prepare, and I am prepared to do so as soon as possible. In that note, I shall demand, if my propositions are agreed to, that you may be allow-

ed to come here in the Fairfield, if not in the schooner ; and will send you an express.

In great haste, yours, &c.

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

Constantinople, }  
30th January, 1829. }

DEAR SIR : I wrote you on the 27th two letters, the last of which informed you of the change which appeared to have taken place in the disposition of the Reis Effendi relative to the objects of my mission.

I have some reason to believe, on my demand of passports, a communication thereof was made to the Sultan, immediately after which an entire change was observed in his sentiments.

I was requested to show to the Porte what would be the advantages which would result to them by the formation of a treaty with us, and they would immediately proceed with the negotiation. Yesterday I delivered a note to the Reis Effendi on the subject, in which I have proposed, as the basis of a treaty, that all privileges and advantages granted by the Porte to the most favored nation, and particularly to England, should be granted to us, and that, in like manner, we shall concede to them. The term ' most favored nation,' I observe, is used frequently, as matter of course, and without much meaning.

As the capitulation and treaties with England appear to me most suitable for us, I have thought best to present the project in that form ; if so accepted, the nego-



tiation may be considered as terminated.

My drogoman has this moment returned from the Porte. He has seen the Reis Effendi, who was so much engaged with despatches just received, that he said he had not time to consider of my note, which had only been delivered last evening; but, from some observations of his, as well as of the drogoman of the Porte, there is reason to believe that a decision favorable to our views has taken place.

I have, in the event of their accepting our proposition, asked permission for a corvette to pass the Dardanelles to bring you here. I shall not let the subject rest for one day. To-morrow, I shall again send to the Porte, and solicit warmly an answer. The moment I receive it, I will send you an express.

With great respect and consideration, dear sir, your most obedient,

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

Constantinople, }  
7th February, 1829. }

DEAR SIR: I wrote you last on the 30th ultimo, at which time I thought to have observed, on the part of the Reis Effendi, a favorable change in his sentiments relative to our negotiation. In fact he accepts the tenor of our instructions; a treaty on terms of perfect reciprocity.

In what this perfect reciprocity is to consist, has been matter of daily discussion between us. He has, in the most unqualified terms, abandoned the pretension

of presents, but proposes we shall pay five per cent duty here, and abandons the right to our Government to make any of their subjects, trading to the United States, pay such duty as they may think proper.

I replied that it is matter of perfect indifference to us what the amount of duty to be paid may be, provided that it is no higher than paid by the most favored nation.

I have stated further, that to regulate the duty at five per cent, would be to put an entire stop to our commerce to this country; and that, if such was their intention, my longer stay here was useless. That if the duty was regulated as now paid by us, a commerce, such as now exists, might be pursued.

But if they wish to see it augmented, a more liberal policy must be adopted. I am momentarily expecting an answer, which I hope to have in time to communicate to you by this post. I expect, at the same time, to know what effect the President's speech will have, as it has, in part, been translated: it cannot, I presume, be favorable.

As the post closes in a few minutes, I am obliged to send my letter.

On Monday there is an express for Smyrna, by which I shall write you.

With great consideration and respect, dear sir, your most obedient servant,

DAVID OFFLEY.

*Mr Offley to Commodore Crane.*

Constantinople, }  
9th February, 1829. }

DEAR SIR: Requesting to re-

fer to to my letter of the 7th, I have to add thereto, that the answer I received from the Reis Effendi was, that the Porte had taken a resolution relative to my negotiation, and that, provided I was reasonable in my demands, he should be able to bring it to a favorable conclusion. He has promised in two days to inform me of the ultimaum of the Porte.

I have also received a message from the Seraskier Pacha that he was sorry to hear of my great impatience; that such affairs were not usually decided in a moment; but that in two days he should be able to make me an agreeable communication.

By indirect means, I have learnt that the Grand Vizer, in a conversation relative to our negotiation, said the order had been given to the Reis Effendi to finish it: the same, from another quarter, has been told me as being mentioned by another member of the Divan.

We shall now see in a few days what can be depended on, and which to me will be highly satisfactory, as I will confess to you that my patience is entirely exhausted — whether being able to finish or to place the negotiation in such a state as would authorize me to abandon it.

With great consideration and respect, dear sir, your most obedient servant,

DAVID OFFLEY.

12th. A snow storm, equal to any I have ever seen in our country, has prevented the departure of the express by which I forward this, until this moment.

The same reason has prevented my having any communication with the Porte until this morning, the result of which is satisfactory. Presents to the Government are entirely abandoned. The only question which appears now to be settled is the duty.

The tariff by which ours hitherto has been regulated is the French; and which, by its limitation, will expire shortly, when the or valuation of merchandise, on which a duty of three per cent is taken, will be altered; as the tariff is now made, the duty in fact does not amount to more than two per cent.

The idea of the Reis Effendi appears to be to regulate our tariff in such manner that, in fact, although not in appearance, we shall pay about one third per cent more than the French now pay, but which advantage they will only enjoy about twelve months more.

A question is also made of our paying for each vessel which enters the Black Sea, on the same terms as the treaties negotiated lately under the mediation of the Russians.

The only manner, in my opinion, which we can agree on this point, is, to pay the money as *light money*, and which would be reasonable and just. The sum talked of for each vessel the voyage, that is, going and returning, is about thirtysix dollars.

On all other points and privileges we are to enjoy the same advantages as the English. The difference now between us is reduced to a trifle. I shall see if

better can be done. The Sultan is absent ; and I believe the definitive settlement of the question is left until his return, which will be tomorrow. The Reis Effendi has promised on Saturday to let me have his ultimatum ; when, if we agree, I shall have the same reduced to writing, and let you know.

It is so cold, I am hardly able to hold my pen. D. O.

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*Mr Offley to Commodore Crane.*  
Constantinople, 27th February, 1829.

DEAR SIR : I wrote you last on the 17th instant, since which my endeavors to close my negotiation have been unceasing. The Reis Effendi still adheres to his proposition relative to the duties, equally as desirous to make their advantages apparent as real : the difference between us in reality is trifling ; but I cannot agree that it shall appear evident that our treaty should be less favorable than that of any other nation. It is now six days since I have demanded my passports, and it is apparent that my departure is by no means agreeable to the Reis Effendi. I have no answer this day from the Porte. Yesterday the Reis Effendi was absent. In the mean time, I have frequent messages from others not to hasten my departure, on which I am decidedly determined, unless the Reis Effendi will at once agree to such conditions as may appear certain of leading to a favorable termination of a treaty.

With great consideration and respect, dear sir, your most obedient servant,

DAVID OFFLEY.

*Commodore Crane to Mr Offley.*

U. S. Sloop of War Fairfield,  
Harbor of Smyrna, 5th March, 1829.

DEAR SIR : Yours of the 27th ultimo came to hand this morning. I concur with you in the propriety of demanding your passport, for I am firmly persuaded the President will not sanction a treaty that does not place us on an equality with the most favored nation. It is now within a few days of four months since I left Port Mahon, and I have been obliged to despatch the schooner Porpoise to Minorca with orders for the Warren to repair to this port with provisions and supplies.

I am, with the highest respect and regard, dear sir, your obedient servant,

W. M. CRANE.

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*Mr Offley to Commodore Crane.*  
Smyrna, 8th July, 1829.

DEAR SIR : Want of opportunity has prevented my acknowledging receipt of your letter 13th April last, until this time. I have, since your departure, and on several occasions, received friendly messages from the Reis Effendi. They were not, however, in my opinion, sufficiently precise to authorize an attempt at renewing our negotiation ; those which are now, and have been for some time pending at Constantinople, are of such high interest to the parties concerned, that it is reasonable to suppose the attention of the Reis Effendi was too much engaged to occupy himself on a subject which could be delayed without material injury to either party.



Attempts are now making at a direct negotiation between Russia and the Porte, and it is quite probable a peace will shortly take place. I have before related to you, as my opinion, that it was the wishes of Russia, relative to a negotiation between us and the Porte, which induced the Porte to make the overtures they did to our Government; a return of a Russian embassy to Constantinople will renew their desires to negotiate with us. Until I am instructed to the contrary, I shall conceive it my duty, at any time when an opportunity offers, to conclude a treaty with the Porte on terms advantageous to our country, and in conformity with our instructions, always giving you the earliest advice possible.

On or before the last of next month, you will probably receive answers to our communications by Mr Wyer, which it will be highly interesting to me to receive as early as possible. Should an opportunity present of renewing the negotiation before that time, I shall endeavor to delay it until I am instructed as to the sentiments of our present administration.

As I have not considered any of the opportunities which have presented of forwarding letters to the United States safe, I have not addressed our Government since your departure.

P. S. Since your *départure* from this, three American vessels have been at Constantinople, where they continue to be received in the most friendly manner. My consular agent there has been permitted the public exercise of

his official duties, in the sale of some damaged merchandise. The consequence attached to this by the diplomatic agents at that place, you will not, I am persuaded, understand. Inquiries were made by them officially at the Porte, whether a treaty had been concluded with the United States; to which inquiries they received from the Reis Effendi such answers as by no means enlightened them on the subject.

DAVID OFFLEY.

TO COMMODORE W. M. CRANE,  
Commanding the United States' naval  
forces in the Mediterranean, on  
board the U. S. S. Delaware.

Department of State, }  
Washington, 12th September, 1829. }

JAMES BIDDLE, DAVID OFFLEY, AND  
CHARLES RHIND, ESQUIRES.

GENTLEMEN: The President has appointed you commissioners to negotiate a commercial treaty with the Sublime Porte, and I have the honor of transmitting to you a commission, with full power, to that effect.

A commission of the same character was issued, by the late administration, to Captain Crane and Mr Offley, but they did not succeed in effecting the object in view. An examination of Mr Offley's report of that negotiation, has inspired the President with a confident hope that another effort may prove more successful; and, by that expectation, together with a strong conviction of the high importance of the subject to the commercial, navigating, and manufacturing interests of the United States, he is induced to revive it.

The trade between the United States and the Turkish domin-

ions, though very limited in its range, and without the security derived from treaty stipulations, is, even under such adverse circumstances, very considerable. The establishment of an equitable and permanent arrangement, by which this trade, with a passage to and from the Black Sea, including the free navigation thereof, were secured, could not fail to be very beneficial to our commerce and navigation generally, and, at the same time, to furnish an extensive and profitable market for our manufactures. The acquisition of those rights is the object of the negotiation which you are authorized to conduct.

The President finds it difficult to believe that the Porte can be indisposed to a just and permanent commercial regulation with a nation like the United States, in whom the Ottoman has never found an enemy, by whose liberal institutions, all political and religious discriminations are banished from her intercourse with foreign States; by whose laws, a Mussulman, whether citizen or alien, would be entitled to the same privileges as a Christian, and which, already great and powerful, increases in wealth, population, and consequent strength, with a rapidity that has not its parallel in the world. There is nothing in the relative condition of the two countries, nor in any just view that can be taken of their respective interests, by which we can account for the exclusion of the United States from the navigation of the Bosphorus and the Black Sea, while that privilege is allowed to almost all the

nations of Europe; and nothing is found in the report of the late negotiation to warrant the belief that other than feelings of great respect and good will are entertained by the Sultan towards this country. It has therefore been conjectured that the circumstance may be justly ascribed to the interference of other nations possessing influence at Constantinople, who might be apprehensive of prejudice to their own interest from our participation in the advantages of the extensive and lucrative commerce of the Black Sea and the Ottoman dominions. An interference of this character would, on the part of either of the nations who now enjoy the privilege in question, be inconsistent with its existing and amicable relations with the United States; and would, it is hoped, yield to such frank and friendly expostulations as the occasion might be deemed to justify. It is, therefore, important, if you should find yourselves embarrassed by intrigues of the description referred to, that you possess yourselves, discreetly, of the best information to be obtained upon the subject, and transmit the same to this department, that the President may be enabled to judge, understandingly, of the measures to be taken in relation to it. Great advantage, it is believed, might also be derived from endeavors, through respectful representations to its public functionaries, towards making the Sublime Porte sensible how much it was due to its own character in the estimation of the world, that all grounds for suspecting it of

subserviency to foreign dictation should be removed.

From an attentive consideration of Mr Offley's report, it appears that, when the late negotiation was suspended, the Sublime Porte was willing to conclude an arrangement by which the United States should be admitted to the navigation of the Black Sea upon the same terms as other nations, and allowed the same commercial privileges in the Turkish ports, upon the payment, by our vessels, of an impost duty of, nominally, five per centum, while other powers paid only three per centum: the same being, however, so arranged, that the United States would actually pay only one-half per centum more than is now paid by other foreign nations. This was declined by Mr Offley, with the approbation of his colleague. It is believed that the point made by the Sublime Porte does not present an insuperable obstacle to the successful termination of a new negotiation; but that, should it happily be found in an equally favorable disposition, and in a situation to act freely in the matter, this impediment may, with zeal and discretion on your part, be satisfactorily overcome. In making this observation, I must not be understood as reflecting on the conduct of Mr Offley, in the discharge of his delicate and difficult duties. Mr Offley, it appears, understood his instructions to restrict him to an arrangement by which the commerce of the United States was to be placed strictly upon the footing of the most favored nation; and sincerely entertaining that view of them, he

cannot be blamed for not agreeing to one which certainly was not in its form, nor precisely in its substance, of that character.

The President is the more desirous that there should be no misapprehension upon this point, from finding how much the trade between the United States and Turkey has been benefited by the zealous attention of Mr Offley to the duties of his office, and frequently by efforts which, if they did not flow entirely from his own impulses, were required only by an enlarged and patriotic view of his official duties. It is doubtless an established general principle of this Government, and one not likely to be departed from, either in form or substance, to require that its commercial treaties shall contain a stipulation that the United States be placed on the footing of the most favored nation. This principle grows out of our sincere solicitude for the freedom of trade, and is founded upon the presumption that, in the commercial privileges which we are willing to concede to all nations who will reciprocate them, we offer a fair equivalent for any that can be granted to us; and that it would, therefore, neither comport with the interests nor the dignity of the United States to accept less. It is nevertheless true that this principle has never been recognised nor acted upon by the Sublime Porte in their negotiations with other powers. Assuming that, in their situation the advantages of reciprocity are altogether illusory, regarding the privileges they grant as concessions proceeding from their free



will and pleasure, originating in motives of friendship, or founded upon specific considerations which distinguish them from reciprocal arrangements, they have claimed and exercised the right of making such discriminations as were agreeable to the sovereign power of the State. There have also, at all times, been means used in negotiating with the Porte, different from those usual among Christian nations. Most, if not all, of those who have formed treaties with it, have, at some time or other, submitted to an inequality of privileges; and if there be any case in which a punctilious conformity with their general principle may justifiably be departed from, on the part of the United States, it would seem to be the present. It is believed that an arrangement securing the objects in view, upon terms, though not precisely so favorable as those which may have been granted to others, yet neither materially affecting the privileges obtained, nor be disparaging to our national credit, would be satisfactory to the Government, and highly acceptable to its constituents.

If the claims of the Porte for an increase of duty upon our vessels had proceeded from want of equal respect for the United States, or a disposition to keep the condition of their commerce in the Turkish ports permanently upon a footing inferior to that of other nations, it would present a question of a very different character. But such evidently was not the case. Previously to the treaty with France in 1740,

the duties paid to the Porte were five *per centum*. By that treaty, which contains, throughout, indications of particular friendship and favor towards the French monarch for services admitted to have been rendered by him, the duty on French vessels was reduced to three *per centum*; and the French, were, moreover, exempted from specific duties, which were directed to be exacted of the English and other nations the same rate of duties, viz. three *per centum* has subsequently been extended to other nations, including the United States, in the limited trade which has been tolerated with them. The stipulation with France, by which the present rate of duty is regulated, expires in about one year; and it is the avowed desire of the Porte to raise it again to five *per centum* for all nations, as soon as they are at liberty to do so. They also avow their motive in requiring us to pay five *per centum*, to be to aid them in obtaining the same rate from other nations.

Their present duties are allowed to be very low, and it does not appear to the President that their object in this respect, can, in justice, be regarded as very unreasonable. He is, therefore, disposed to acquiesce in these views of the Porte, if they prove to be sincere; and if he can, thereby, without assenting to any act that would affect our national credit, secure to the United States the important interests under consideration. This, he thinks, might be effected by a treaty, providing that our vessels should

pay five *per centum*, or any other reasonable amount, either in the face of the treaty, or in a secret article, that, after a certain period, viz. the time limited by the treaty with France, (assuming that it is about the period stated,) the United States shall be placed on the footing of the most favored nation.

This proposition will test the sincerity of the sentiments which have been expressed by the Sublime Porte, and enable them, if sincere, to effect their avowed object without injustice to the United States.

You will, of course, first endeavor to make a treaty upon the general footing of the most favored nation; but, in the event of your finding the dispositions of the Porte unchanged upon that point, you are authorized to agree to one of the character above stated. Should you, from any cause, be unable to conclude a satisfactory arrangement in relation to our commerce with the Sublime Porte, you are authorized and instructed to consent to postpone that branch of the business to a more auspicious period, and to negotiate for the privilege of a passage to and from the Black Sea, and its navigation, upon the most favorable terms that have been granted to other foreign nations. Should you succeed in the negotiation of a commercial treaty, you will not fail to have every article inserted which shall be necessary to ensure protection to the persons, property, and commercial pursuits of American citizens in the Turkish dominions. I send

you herewith, a copy, believed to be authentic, of the capitulation with France, of 1740, and also of the treaty with Spain, of 1827; which, together with such of a modern date as it may be in the power of Mr Offley to obtain, will furnish you with the stipulations which have been entered into with other nations. You will, in that event, be particularly careful, also, to preclude all ground for future misunderstanding, arising from incorrect translation from or into the language used by the Porte, in their diplomatic acts — a source from which, it is understood, that difficulties have heretofore sprung.

The President directs that the instructions furnished by his predecessor to Messrs Crane and Offley, enjoining upon them that the treaty which they were authorized to negotiate, should extend only to objects of commerce and navigation, and should, in no event, interfere in the neutral obligations of the United States, or with any of their existing treaties with other powers, be strictly observed by you. There are reasons of the most cogent nature, arising from the apprehended interference of other powers, and the notoriety which has been given to Mr Offley's agency in the late negotiation, which would, in the opinion of the President, render it expedient that neither Commodore Biddle nor Mr Offley should appear at Constantinople until the negotiation has been, through the instrumentality of Mr Rhind, so far brought to a conclusion, as to remove all ground for apprehension from that source,

and to require their presence for the consummation of the business. It is, therefore, the wish of the President that this course should be observed, as he places entire confidence in the intelligence, prudence, and capacity of Mr Rhind. But as this opinion is formed only upon the information possessed by the Department of State, as that may be defective, and as the state of things may have changed materially since it was acquired, this branch of the subject is submitted entirely to your discretion. If, from a view of the circumstances, as they are presented to you on the spot, you shall all be of the opinion that Mr Offley's presence at Constantinople is indispensable, or even highly expedient, you will act accordingly. It is not anticipated that any objection will be made on the part of the Sublime Porte, on account of your diplomatic rank. In adopting this course, instead of sending an envoy or envoys extraordinary and plenipotentiary to conduct the negotiation, the President acts in conformity with the wish which he understands to have been, upon more than one occasion, expressed by the Sublime Porte, to the agents of the United States. In the event of the conclusion of a treaty, for the necessary disbursements connected with it, including the presents usual and indispensable, an authority is herewith given to Commodore Biddle to draw upon the Navy Agent at Gibraltar. The most exact economy is enjoined in the expenditure of this money, taking care that so much of it only is

used, as, in the exercise of a sound discretion, you shall think indispensably necessary to the object in view. Your compensation for this service, in addition to the payment of your expenses, will be such as Congress, by a future appropriation, may sanction. It can scarcely be necessary to enjoin the most scrupulous secrecy in all your movements. Its expediency cannot fail to be obvious to you, and I therefore count with confidence on its observance. Although the commission is several as well as joint, it is the wish of the President that any arrangement which may be made, shall receive the sanction of at least, two of you.

I am, &c.

MARTIN VAN BUREN.

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*Mr Offley to the President.*

Smyrna, August 9, 1829.

SIR : Since I had the honor to address you on the 26th March last, nothing particularly interesting has transpired relative to the subject of that communication. Our merchant vessels continue to trade to Constantinople, where they are received in a friendly manner. I have, on several occasions, received, through Mr Navoni, our drogoman at that place, friendly messages from the Reis Effendi, which possibly might have led the way to the renewal of the negotiations with him, had it appeared expedient, and which he professes to regard as suspended, but by no means as broken off, appealing to their continued friendly treatment of our commerce in proof thereof. The



negotiations now carrying on at Constantinople with France, England, and Russia, are of such immediate importance to the Porte, that this moment is not favorable for pursuing ours. Immediately after the termination of the present war with Russia, will be a favorable moment for obtaining from the Porte all concessions necessary for the interests of our commerce.

In the instructions your excellency did me the honor to furnish me, allusion is made to the negotiation being terminated without delay. As that has taken place, I wish much to be instructed whether it is your wish that I should renew the negotiations at such times as may promise a favorable issue, and whether, in the event of a Russian ambassador being resident at Constantinople, it will meet your views that I should avail of his friendly offices in any negotiation with the Porte? Your excellency, no doubt, is aware, that, in the treaty of Ackerman, it is stipulated that the Porte shall accept of the mediation of Russia in obtaining for such powers as have not already the right, the passage to the Black Sea, the object of greatest inducement for us, in my opinion, to negotiate with the Porte, and one in which Russia is equally interested with ourselves.

The negotiations during the last month at Schumla were of short duration, nor is it understood there that the French and English ambassadors have been more successful. In the mean time, the Russian armies continue to advance, and are said to have

passed the Balkan mountains. On the 25th ultimo, the Russian general Baron Hoeffling passed through here on his way to Constantinople, said to be bearer of propositions of peace from the Emperor of Russia, to be made personally to the Sultan.

I have the honor to be, with great respect and consideration, your excellency's most obedient servant,

DAVID OFFLEY.

To his Exc'y the PRESIDENT of the U. States, Washington.

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*Andrew Jackson, President of the United States of America, to all to whom these presents shall come, greeting :*

Know ye, that, reposing special trust and confidence in the integrity, prudence, and abilities of James Biddle, a Captain in the Navy of the United States, commanding their squadron in the Mediterranean, of David Offley, Consul of the United States at Smyrna, and of Charles Rhind, a citizen of the United States, I have appointed them, and each of them, jointly and severally, commissioners of the United States of America, for them and in their names, to confer, treat, and negotiate with the Sublime Porte, or with any person or persons duly authorized in its behalf, of and concerning all matters of navigation and commerce between the United States and the Turkish dominions, with full power to conclude and sign a treaty thereupon, or to give their assent to a capitulation therefor, transmitting the same to the President of the United States for his

final ratification, by and with the advice and consent of the Senate.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Witness my hand, at the city of Washington, this 12th day of September, in the year of our Lord 1829, and of the independence of the United States the 54th.

[L. S.] ANDREW JACKSON.

By the President:

M. VAN BUREN,  
*Sec'y of State.*

Department of State, }  
Washington, September 12, 1830. }

SIR: From the commission and letter of instructions of this date, addressed to yourself, Mr David Offley, and Mr Charles Rhind, which will be communicated to you by the latter, you will perceive that the President has determined on renewing the negotiation commenced under the late administration, by Mr Offley and Captain Crane, which had for object the formation of a commercial treaty between the United States and the Sublime Porte, and the admission of our flag to the freedom of the Black sea.

His confidence in your patriotism, abilities, and discretion, has induced him to commit this trust to you, jointly with the abovementioned gentlemen; and every proper precaution is expected of you for keeping the whole transaction as secret as possible. Your despatches on the subject, addressed to the President of the United States, will be sent, under cover, to the Secretary of the Navy. A letter of credit to the

amount of twenty thousand dollars is, herewith, furnished you from the Secretary of the Navy, upon the Navy Agent at Gibraltar. As appears from the letter of instructions above referred to, this sum is placed at your disposal for the sole purpose of meeting such expenses as may be requisite to the fulfilment of the business committed to you. You will regularly advise the President of every draft made on this credit, and furnish him with an exact account of the expenditures made under this authority, certified by yourself, and supported by such vouchers as may, without risk of exposure, be obtained.

As is also stated in the general letter of instructions, your compensation for this service, in addition to the payments of your expenses, will be such as Congress may, by a future appropriation, sanction.

I am, &c.,

M. VAN BUREN.

Captain JAMES BIDDLE, Commanding  
the U. S. Squadron, Mediterranean.

Department of State, }  
Washington, 29th September, 1829. }

SIR: Your letter has been submitted to the President. Upon a careful review of the whole ground, he is of opinion that the addition to the powers of the commissioners, suggested by your letter, could not with safety be made.

If so total a change of the present condition of things should take place as would render your present powers inoperative, a special messenger may be sent with such as shall be adapted to the existing state of affairs.

It is, therefore, the wish of the President that you should proceed in your mission as soon as your convenience will admit of it.

With respect, your obedient servant,

M. VAN BUREN.

CHARLES RHIND, ESQ.

*Mr Rhind to the President.*

Constantinople, May 10, 1830.

ANDREW JACKSON,

President of the United States.

I have the honor to communicate to your excellency, that, immediately after the receipt of the instructions from the Hon. Mr Van Buren, under date of the 14th September, 1829, I made such arrangements as would conceal my departure from the United States, and took passage in the first vessel that sailed for Gibraltar, embarking in the middle of the night, without taking leave of my family, my sons only being aware of my business. After a boisterous passage of forty days, I arrived at Gibraltar, and finding the United States' ship Ontario at anchor there, I presented to Captain Stevens the letter from the Hon. Mr Branch. He immediately got under way, and used every exertion to reach Mahon, which we did in the short space of sixty-eight hours.

On acquainting Commodore Biddle with the object in view, and presenting to him the commission and instructions, he made such arrangements as would insure secrecy respecting our destination, and, with incredible promptitude got his vessel (the Java frigate) ready for sea. We

were abreast of Malta, before even a suspicion was entertained by the officers and crew that we were bound to Turkey. On the 26th December, the frigate came to anchor a few miles below the castle of Smyrna. Commodore Biddle and myself, were congratulating ourselves on having so completely fulfilled the wishes of your excellency, for I had reached Turkey without its being suspected that I had left the United States; and it was not known to the ships below in the Mediterranean that Commodore Biddle was in the Levant. Your excellency may judge of our mortification and surprise when Mr Offley came on board, and informed us it was perfectly well known in Smyrna that we were commissioners. In order, however, to divert suspicion, it was determined, *most fortunately*, that I should proceed here alone. I accordingly took passage in the first vessel, but was, unfortunately, thirty-two days in reaching Constantinople. I attempted to come by land, but found that impracticable, the winter was so severe and the roads impassable.

On reaching this, the 8th of February, I determined to avail myself of my consular character, to aid in concealing the mission. I had an interview with Mr Glarany, commercial agent of the United States, and Mr Navoni, American drogoman, and observed to them that, in consequence of my appointment to the consulate of the Black Sea, it became my duty to ascertain, before I proceeded farther, whether our vessels would be allowed to



pass the Bosphorus, and asked their opinion in what manner this was to be obtained. They coincided that the best mode of ascertaining this fact would be to apply to the Russian ambassador ; but on my remarking that, in all probability, he would give a favorable construction, and if the Turks did otherwise our vessels arriving here would be then placed in a very unpleasant dilemma, and suggested if it would not be better to apply at once to the Reis Effendi. On reflection, they seemed to think this would be decidedly the best course. Having thus secured an ostensible reason for visiting the Porte without suspicion, I next ascertained the character and talents of Mr Navoni. Finding them satisfactory, I then told him the object of my mission, and that, as there were certainly intrigues attending the last negotiation, I candidly confessed that Government, as well as myself, had some suspicions that he was implicated in them. He was much hurt at this suggestion, but grateful for my candor ; and fully satisfied me that he had not only been entirely unconnected with those intrigues, but, on the contrary, had manifested the greatest fidelity and zeal for the interests of our country.

On the 10th of February, I directed Mr Navoni to wait upon the Reis Effendi, announce my arrival and solicit an interview. He was received courteously, and his excellency inquired if I was furnished with full powers. Mr Navoni replied in the affirmative. The Reis

Effendi then asked if I was not the person who had been appointed consul for the Black Sea. Mr Navoni dexterously evaded the question by replying that he was only aware of my holding a patent as commissioner, with full power to conclude a treaty, and that he had seen and read it. His excellency then requested him to come next day, and bring a copy of the power and *instructions*. Mr Navoni replied, that, as to the power, he had no doubt I would readily comply with the request, but as to the instructions he could not promise, but next morning would give his excellency a reply. I immediately directed Mr Navoni, to make a copy of the commission, which he did in French and Turkish ; and, on the 11th February, waited on the Reis Effendi, showed him the original, and left with him the copies. His excellency inquired whether I had any proposition to make, and observed, that, doubtless, I understood the position in which the affair now rested, observing that he was not disposed to begin a new negotiation, and expressed his desire to see my instructions. Mr Navoni said he presumed I would decline exhibiting them, but that, in a personal interview, I would doubtless explain their nature. The Reis Effendi then asked Mr Navoni, confidentially, what he thought they were, and begged him to draw up a *resumen* of them, and give it to him. Mr Navoni, said that, as he was ignorant of their bearing, and they were known to me alone, he could only repeat that, at an interview, I would, no doubt, satisfy him on

every point. His excellency said that he was very much occupied at the moment, but would next day appoint a time for an interview.

The Reis Effendi having named the 13th of February for an interview, I accordingly repaired to his own palace at 11 o'clock, the hour appointed, and found him alone. He received me in a courteous, and apparently friendly manner. After inquiring about my health, how long I had been upon the voyage, &c., I observed that the note which his excellency had addressed to the government of the United States had been received, and was duly appreciated; and as a desire mutually existed on the part of the President to form friendly relations with the Sublime Porte, he lost no time in sending commissioners to treat with his Imperial Majesty on the subject, and to form a treaty which, while it was based on principles comporting with the dignity and character of two great and powerful nations, might secure to the subjects and citizens of each confidence and protection in their commercial affairs, and bind together, in social relations, two great and powerful nations. His excellency replied that these sentiments were reciprocally entertained by the Porte. I then remarked, that the President saw with regret that the late negotiation terminated in a manner neither comporting with his expectations, nor (as he flatters himself) with the sentiments of his Imperial Majesty or that of his excellency; and believing that some untoward circumstances, not now understood, had tended

to protract the connexion so much desired by both parties, and having full confidence in the sincerity of his excellency in giving the invitation alluded to, the President at once gives a proof of his high regard for his Imperial Majesty the Sultan, and his confidence in the sincerity of the invitation given, by nominating a new commission, composed of the commander-in-chief of the American naval forces in the Mediterranean, Mr Offley, American consul for Turkey, and myself, one of the oldest American merchants trading to the Levant. That, desirous of avoiding the obloquy of a failure in this negotiation, I had been sent higher alone to form the basis of a treaty which, if acceded to by his excellency, and if a firman was granted, my colleagues would immediately proceed here in the frigate which bears the broad pendant of the United States, and conclude the treaty. I assured his excellency it would afford me, personally, great pleasure to find that he was animated by sentiments similar to those which govern the nation I had the honor to represent; and I took occasion to signify, that, while we are disposed to accede to arrangements similar to those made with other powers, and while willing to comport with the courtesies which mark the intercourse of other nations, on no occasion would we depart from those principles of honor and independence which ought to characterize every nation which takes its place among the members of the human family; and, with that frankness which distinguishes the American character, I now ap-

peared before him ready to conclude a treaty of amity and commerce on terms comporting with the dignity of two such powerful and distinguished nations as the Sublime Porte and the United States of America.

I observed, that, if the invitation given was sincere, (of which the President had no doubt) the business might be soon concluded; but, as we are a people who act as we profess, and confirm those acts with fealty and honor, I hoped to experience from his excellency a prompt and decided answer to the question, whether this treaty is to be concluded or not, observing that I was now here ready to close with him on terms based upon principles of mutual reciprocity; and, if this offer was rejected, the President of the United States would adopt such measures as may seem to him best calculated, under the circumstances of the case; but I took occasion to apprise his excellency that, while we now appear here, in full faith and sincerity, in compliance with his invitation, the President would not conceive it to be comporting with the dignity of the Ottoman Porte to treat slightly this proof of the confidence he has reposed in the invitation sent by his excellency on the part of his Imperial Majesty. I therefore indulged the hope that he would at once express the ideas of his Majesty, so that I might convey them forthwith to America by one of our national vessels, now waiting at Smyrna for the purpose of announcing to the President of the United States the result of our present interview.

His excellency said that, doubtless, I was aware of what had passed in the former negotiation, and the position in which affairs now stood; that he was not disposed to commence the negotiation anew, but would take it up where it last rested. He expressed himself pleased that I was here, and thus empowered, and said the affair would be soon terminated: and he was willing to close the treaty if we would agree to pay five per cent on the tariff, as formerly arranged. To this I replied, we had no objections, provided he would agree to a separate and private article, in which it should be stipulated, that, when the existing treaties with other powers (now about to expire) were renewed, we should then be put on the same footing with other nations. He admitted that this was a fair proposition, but, after a good deal of discussion, he wished to adhere in having this stipulated in the treaty alone, because it was the only advantage the Porte could desire, and that other nations had invariably made concessions of some kind. That he was aware of the *astringent* character of our nation, consequently, expected I would consent that some advantages should be derived by the Porte, and that *this* in fact was the only one they could require.

To this I replied that I thought it strange he should make demands upon our country which were not exacted from other nations. That he must be aware we were a great and powerful nation, considering ourselves second to none on earth; that we had treaties of amity and com-



merce with all the nations of Europe, Turkey excepted; and that, although the President of the United States was desirous of forming a treaty of friendship and commerce, yet it was by invitation of the Sublime Porte I now appeared before his excellency; that the President, regretting the suspension of the former negotiation, had given a fresh proof of his friendly feeling towards his Imperial Majesty the Sultan, and his confidence in the sincerity of his excellency, by nominating commissioners anew; and that I indulged a hope that he would duly appreciate this friendly conduct on the part of the President. His excellency replied that he fully appreciated the motives of the President, and assured me that they were reciprocated on the part of the Sublime Porte, but that it was requisite that some ostensible advantages should appear on the face of the treaty. I replied that the commerce of the United States with the dominions of his Imperial Majesty was already very considerable, and that doubtless it would be vastly increased after a treaty was signed; consequently, the Porte would derive great advantages by the increase of revenue from the impost duty; and that greater activity would be given to the demand for the products of Turkey, both of which I conceived to be objects of no small importance. His excellency said that these advantages could be derived through other nations, and he could not view them in the light I did. I stated to him that I was one of the first American merchants who

commenced commerce with the Levant; and that, in my early adventures to this quarter, the price of coffee (an article of such essential importance in this country) was about 40 cents per pound, and now it was only about a fourth part of that price, and this reduction was caused entirely by the effects of the American commerce; and that, moreover, the demand for the produce of Turkey had been greatly increased, and the price consequently enhanced; and that even *now*, in one article, *opium*, (an article of such vast importance,) we annually purchased from one-half to two-thirds of the crop. His excellency then said that he saw no difficulty, and that the affair would be forthwith decided; but (says he) *‘we are just now like a ship on the stocks ready to be launched into her proper element, requiring, however, some impelling power to send her into the water !!!!!’*

I replied, his excellency must be aware that, by the nature and principles of our Government, we neither paid nor received anything on making treaties with any power whatever, but were willing to close a treaty with the Sublime Porte on such terms as would be equally honorable to both nations; and I mentioned the advantages the Porte would derive by having so powerful and disinterested a friend as the United States, whose distant situation and whose principles were opposed to the chicanery and diplomatic intrigues so generally practised in Europe. That we were a people open, candid, and sin-

cere, in all our relations with foreign powers, and only desired to be on friendly terms, and have commercial intercourse with all the nations of the earth, our character being purely commercial; and we flattered ourselves that we were distinguished for good faith.

His excellency said that he felt desirous to close the affair at once, but as he did not like to have a private article in the treaty, for, by communicating it to the other powers, he must be guilty of a *lie*, proposed fixing the tariff at 4 per cent. I told him that, as to the tariff, he might make it 10 per cent if he pleased, provided he put us on the footing of other nations; and that, as to the secret article, his excellency must be aware that such arrangements were universally adopted by the powers of Europe in their diplomatic acts; consequently, the Porte would be only acting as had often been done before.

His excellency pressed this subject, and I enforced my arguments, declining to take a treaty without this stipulation: he paid a compliment to my conduct, said that he would report thereon, and that I should hear from him in a few days. I begged his excellency not to suppose that I wished to press him on the subject, but stated the fact that, as Congress adjourns in April, and could not assemble again for the greater part of the year, and as the President would naturally be desirous of communicating to Congress the result of this negotiation, the Commodore had a sloop of war ready at Smyrna to

proceed with all possible despatch to America; and that even now it would require the utmost vigilance to reach it before that period. Moreover, that I had lost a month in my passage from Smyrna, and I entreated, therefore, that his excellency would, as speedily as possible, give me a definitive reply. He said that, in the course of two or three days, I should hear from him. I then asked his excellency in what light he viewed our intercourse with the Black Sea? He replied that, of course, that matter would be embraced in the treaty; but an arrangement must be made on that point, and that he expected *I would comply with the terms offered to Mr Offley*. I expressed my astonishment at the suggestion of such an idea, and asked him why he could think of making a distinction between the United States and other nations, more particularly as affairs had materially changed their aspect since that period, and, by the late treaty of Adrianople, it was stipulated that the navigation of that sea should be open and free to all nations. His excellency avoided a direct reply on this head, but said that the hour was arrived when he had an engagement, but that he hoped there would be no difficulty in the arrangement, and I should hear from him in 2 or 3 days. I then took leave. The conference lasted upwards of two hours. Immediately on my return home, I addressed a note to Count Orloff, (having learnt that Mr Ribeaupierre was at Buyukdere, on the Bosphorus,) announcing my desire to pay my

personal respects to his excellency. He appointed the following day, and received me with distinguished frankness and friendship. On learning from him that he had been apprized by Mr Middleton, and also by his Government, of the appointment of commissioners, I communicated to him the whole circumstances, and the interview I had with the Reis Effendi, and the singular demand his excellency had made respecting the passage to the Black Sea. Although Count Orloff was surprised at this, considering that he had fully expressed his meaning on that point when he negotiated the treaty of Adrianople, yet that *man* (he said) was in the habit of making strange demands, and only the other day asked him to restore *the Crimea* to the Porte. His excellency, however, had no doubt that the Reis Effendi would eventually arrange a treaty on satisfactory terms; but, if not, assured me that Mr Ribeaupierre and himself would interfere. Naples, Spain, and Denmark, had, in the year 1827, respectively made treaties with the Porte, stipulating to pay certain sums, on the passage of each vessel to the Black Sea; and the ministers of those powers, conceiving that, by the treaty of Adrianople, they were *exonerated* from the payment of dues, applied to the Porte to have their treaties altered so as to comply with the article in the treaty of Adrianople. The Porte replied that those were solemn stipulations in treaties long since made, and that the treaty of Adrianople could not be so construed as to have a retrospective effect.

On the 16th of February, *Pertive*, Reis Effendi, was deposed.

Mr Ribeaupierre having arrived at Pera, I had an interview with him. He received me with great kindness, and assured me that I might rely upon the utmost aid of the Russian legation; that he was aware the subject was equally interesting to both nations; and that everything I could require would be done on their part to aid our views. He however observed that although the treaty of Adrianople opened the Black Sea to all nations in *amity* with the Porte, yet as we had no treaty, and did not literally come within the scope of that article, it would be necessary to have a treaty before we could exact the privilege, and he recommended me to endeavor to obtain one. I intimated to his excellency the desire I had to conclude a treaty, in order that I might embrace in it an article securing to us the navigation of the Black Sea, observing that, from the nature of the late peace with Turkey, and the very deranged state of the diplomatic affairs of Europe generally, it could hardly be expected much time would elapse before fresh troubles would arise, in which case we, who possess so extensive a commercial marine, and adequate power to protect it, and distant as we are from the broils of the European powers, and eager also to preserve a neutral character with all the advantages, would be equally invaluable to Russia and ourselves, should circumstances occur to place us in the attitude alluded to, and our flag become the neutral carriers



of the Black Sea. His excellency saw the force of this argument, expressed his hopes that I would succeed, and repeated the assurance that he would be ready to afford me every assistance whenever I required it.

On the 17th February, I learned that Hained Bey had been appointed Reis Effendi. This gentleman has always expressed a favorable feeling towards the United States; which was not the case with his predecessor. \*

\* \* \* \* \*

The Chargé of Naples having inquired of the Reis Effendi, if, in consequence of the treaty of Adrianople, the Porte would make some modifications in regard to the navigation of the Black Sea, his excellency replied in the negative. The Chargé then addressed an official note to M. Ribeaupierre, requesting his aid in obtaining permission for Neapolitan vessels to be exempt from dues on passing the Black Sea. M. Ribeaupierre complied, and, in an official note to the Reis Effendi, made known the interest Russia took in this affair. The Reis Effendi replied, likewise, in an official note, and expressed the surprise of the Porte at his demanding such a substitution under the treaty of Adrianople, observing that the said treaty had been complied with, and the Porte saw no reason why the conventions with Naples, Spain, and Denmark, should be changed.

Notwithstanding the proclamation of the Emperor of Russia, and the construction generally given to the 7th article of the treaty of Adrianople, it is now ascertained

that the Turks construed it differently, and that the Black Sea is only open to such nations as have treaty stipulations with the Porte. Ever since I first saw that treaty, I have been afraid the Turks would give it this construction, and the present circumstances prove how timely and judicious it was in your excellency to nominate the commission at the period you did. On the 24th February, the Reis Effendi arrived from Adrianople, and I directed Mr Navoni to wait upon him, and tender my congratulations on his accession to office, and to solicit an interview. His excellency received Mr Navoni with great cordiality, and assured him that, as soon as he entered upon the business of his department, he would attend to our affair. On Mr Navoni's pressing him not to postpone the business under the usual pretext that no negotiations could be carried on during Ramazan, (which was just commenced,) and then until after Bairam, his excellency agreed, that during the night, (for the Turks do no business during the day at this period) we might come and see him. He sent me his respects, and begged Mr Navoni to assure me that he was desirous of making my acquaintance, and to finish the business.

On the 28th February Mr Navoni again waited on the Reis Effendi, and delivered to him a copy of the commission in the Turkish language. His excellency then asked him to narrate what had passed with his predecessor, which Mr N. did. The Reis Effendi then inquired if any offi-

cial answer had been given after the interview, to which he replied in the negative, observing, however, that the third day thereafter the Reis Effendi had been removed. His excellency then stated that he would apply to the *Camaicam*, and obtain authority to treat with me, and assured Mr Navoni that the affair would be soon finished. On the latter urging his excellency to appoint a time for an interview, and observing that it was chiefly for the purpose of paying my personal respects to his excellency, and to show him the commission in the original, the Reis Effendi replied that he would dispense with that, as he was not a man of much ceremony, but the moment he obtained authority he would enter on the business at once.

On the 2d of March, I again sent Mr Navoni to say that I was very desirous of having an interview. His excellency replied, that we must wait a couple of days more, advising me not to press the business. I had been informed that the demand of the Russian legation to open the Black Sea to the Neapolitans and others, couched in pretty high language, and that the subject was then before the Divan, and the members of which were in no very good humor in consequence, and I presumed this was the reason the Reis Effendi wished me not to press the business at this moment. Mr Navoni, however, mentioned to his excellency that as my colleagues were still at Smyrna, I was exceedingly anxious to have an interview in order to convey information to them.

The Reis Effendi then nominated Beylikgi Effendi (chancellor of state) to treat with him, and that the former could report to his excellency the result of the conversation.

It was not until the 6th March, when Mr Navoni had an interview with his excellency Beylikgi. Mr N. commenced the conversation by remarking that he was aware his excellency was perfectly acquainted with all the circumstances attending not only the present, but the former negotiations; that is to say, of Mr Bradish and Mr Offley. His excellency said, that, as to the first, the Ottoman empire was, at that time, in a very deranged state, and had at the moment matters of more pressing importance to attend to than that of undertaking a new negotiation; and if, at that time, they were afraid of displeasing the \* \* \* \*, it was excusable, but he confessed he felt mortified that the negotiation of last year was not finished; *first*, because the motives which governed in a former instance did not then exist; and, *secondly*, the Turkish Government had given a formal invitation to the United States, saying that the time was favorable to conclude a treaty which, for a long time, both nations had manifested a desire to accomplish; and his excellency said he could not imagine why the negotiation had proved fruitless, but observed that, without meaning to give offence, he candidly was of opinion that the fault was partly our own. Mr N. inquired of his excellency in what manner it could appear to be our fault? Beylikgi

said, that, according to the report made by the late Reis Effendi to the Divan, it would appear that the United States wished to have all the advantages on their side, and refused to admit the offers which had been made to the Porte by agents of our Government; and that this was the cause of the failure, was the opinion of the ministers generally.

Mr N. assured his excellency that this was only a shift of the Reis Effendi to justify himself, and declared that no proposition had ever been made by any agent of the United States, excepting upon principles of perfect reciprocity; and that, since the time Mr Bradish was here he had to the present moment acted, as interpreter; and that, at the time the last invitation was given to the United States, the Ottoman Porte had an interest in making the \* \* \* \* believe they were about to conclude a treaty with the Americans; and that a year afterwards, when the envoy arrived here, circumstances had changed, but the effect had been produced, and the \* \* \* \* \*, in their turn, wished to have it believed that they were pleading the cause of the Ottoman Porte with their two allies. So that the Turks placed all their hopes in them, and it was to please \* \* \* \*, that the Reis Effendi placed obstacles to the conclusion of a treaty, by making it appear that the invitation had been in consequence of offers and promises made by agents of our government to furnish an entire fleet to the Ottoman Porte — a thing totally absurd: that no agent

could have made such an offer, and that, if the idea had been suggested to himself when he was requested to apprise the President that the Porte was disposed to conclude a treaty and invite a plenipotentiary, he would have instantly rejected the proposition; and, moreover, when Mr Offley pressed the late Reis Effendi to name any agent of the United States who had made such a proposition, he could not, but being determined to place obstacles in the way, he persisted in demanding that we should pay higher duties than those paid by any European nation; which Mr Offley could not consent to, and from what his excellency now said, it would appear that he had made the ministers believe that the treaty could not be concluded, because the Americans would not fulfil their promises, as if they had actually made any. His excellency said this was precisely the case, but he was astonished how his Government could amuse itself with such a hope, or for what reason the United States could be expected to give such a fleet, and expressed his surprise that the affair was not settled on terms equally advantageous to the two nations, for the greater portion of the ministers of the Divan were favorably inclined towards the United States, but, he said, it would appear that the present Reis Effendi and himself had been *destined* to finish this business; and, notwithstanding that they were at present much occupied by business, the affair shall be finished; and, according to the report of the late Reis



Effendi, the greatest, and perhaps only, difference consists in the 5 per cent duty. We will arrange it easily. Monsieur the commissioner must modify his pretensions, and we will do the same. His excellency requested Mr N. to convey to me the assurance of his high respect for the American nation; and that, on making my personal acquaintance, he had no doubt he would entertain the same opinion of myself individually. He said he would undertake to fix the 9th of March for an interview with the Reis Effendi, and remarked that he would himself be personally present.

\* \* \* \* \*

On the morning of the 9th March, I sent Mr Navoni to the Porte, to ascertain the hour the Reis Effendi would see me that night. On waiting upon Beylikgi Effendi to learn the time, instead of that, his excellency observed that he had been occupied in the business, and saw that the only difficulty was about the duties; but as 5 per cent had already been named, he could not flatter himself to put it aside entirely, but we must endeavor to arrange it in the best possible manner. And as the tariffs of the different nations expired at unequal epochs, and some time would be necessary to form new tariffs, he thought that instead of having a private article to destroy the ostensible one, it would be better to fix a time during which we should pay the 5 per cent, and that he would endeavor to have that period reduced as much as possible, but could not flatter himself it could be done for a less period than

three years. He requested Mr Navoni to make this proposition, and to request me to draw up such a treaty as I required, embracing those principles; assuring him that they were desirous of forming friendly relations with the United States; but, as neither their merchants nor vessels went to America, the only advantages the Porte could derive would be by the duties. He likewise assured Mr N. that they considered the United States among the first powers.

When Mr Navoni communicated to me the result of this conference, I determined to put an end at once to this idea of exacting higher duties from us than from other nations; and, accordingly, I gave Mr N. written instructions 'to repair next day to Beylikgi Effendi and the Reis Effendi, and, on my part, to say that the only reply I could make to the proposition of yesterday was, that I came here, as the representative of a great and powerful nation, to form a treaty with the Sublime Porte, and by their invitation expressed in writing, signifying that they were desirous of finishing a treaty. The President of the United States, in full faith of the sincerity of this invitation, sent me here to form a treaty based upon principles of perfect reciprocity and equity, and comporting with the dignity of two such nations. The United States would disdain to ask anything that was not just and honorable; and the President could not indulge a belief that the Sublime Porte would lessen its own dignity by demanding

anything to the contrary. It was, therefore, with surprise and mortification that I find pretensions held out, and demands made, which the Sublime Porte has not even pretended to require from the minor powers of Europe. That it now only remained for me to obtain an official expression of their demands, and to convey the same to the President, and that the object of this present visit was to ascertain in what mode they would prefer doing this, and, for reasons with which he was acquainted, it must be done promptly.' Mr Navoni was quite alarmed at this step; he begged and entreated me to refrain, as it was their way of doing business. I told him that we Americans had but one way of acting, prompt, candid and sincere; and that my official character made it my duty to repel any slight that might be offered against the dignity of my country, and that I could not permit the Porte or any other power to *suggest even* the idea of placing us second to any European power whatever; that my mind was made up, and I should make immediate arrangements for my departure, and if they refused an official confirmation of the demand they had made, I should consider his written report to me, (which I then had) as sufficient. I mentioned to him that, in case they should enter into conversation with him, that the following were the only terms to which I would agree as the basis of a treaty; and I gave it to him in writing, in order that, hereafter, there might be no misunderstanding.

1st. The United States to be received on the same footing in every respect, pay the same duties, and enjoy all the rights and privileges of the most favored nations, particularly France and England.

2d. That, at all times hereafter, the navigation to or from the Black Sea, shall be free and open to American vessels, nor shall they be delayed in passing either to or from it under any pretext whatever.

Mr Navoni accordingly waited on Beylikgi Effendi, and read the instructions I had given him. His excellency instantly declared that the proposition made yesterday, was a project of his own, and not a demand of the Porte, and he begged that I would consider it null, and as if it had never happened; that as he had understood something had been said respecting the 5 per cent, without any thing being fixed, and as the duties to be paid would have to be arranged at the expiration of the present treaties, an epoch when those of all the powers will have to be changed, he supposed that, by making the proposition he did yesterday, it would facilitate the understanding; but, since the circumstance had produced so unfortunate an effect, he entreated me to take no notice of it, and said that as this was an affair which must be settled, I should be invited to an interview with the Reis Effendi on the following evening.

The Russians not having succeeded in obtaining firmans for the Neapolitan vessels, a simulated sale of them has been made,

and they went as Russians. The Porte seems determined to *adhere* to their construction of the 7th article of the treaty of Adrianoplé.

On the 12th March, I had an interview with Hamed Bey, Reis Effendi, his excellency, Beylikgi Effendi, being likewise present. On entering, the Reis Effendi requested me to be seated on the Divan near to him, and, after inquiring about my health, how long I had been on the voyage, &c., I addressed him as follows :

In behalf of the United States of America, and for myself personally, I congratulated his excellency on his accession to office, and begged leave to express my hope that his excellency would be the means of cementing a friendship between two powerful nations alike distinguished for honor and good faith, and that the circumstance will characterize the administration of his excellency by an event equally memorable in the annals of both countries.

The Reis Effendi replied, that he felt the compliment paid to him, and, in return, assured me of his good feeling towards America. I then addressed Beylikgi Effendi, and expressed my gratification in becoming personally acquainted with him, and the high sense of gratitude I entertained for his friendly feeling towards our country, assuring him that, when they became better acquainted with it and its citizens, they would find more to appreciate in their character. I next addressed the Reis Effendi in the following terms :

On various occasions, a desire has been expressed by officers

of his Imperial Majesty, the Sultan, that a treaty might be formed between his Majesty, and the United States of America ; and, in the year 1827, his excellency the late Reis Effendi sent a written invitation to the President of the United States, intimating a wish, on the part of the Sublime Porte, to form a treaty of amity and commerce between the respective countries. The President of the United States, animated by similar sentiments, immediately nominated commissioners, with full power to close a treaty on terms of perfect reciprocity, and comporting with the dignity of two such great and powerful nations. The President learnt, with regret, that this negotiation closed in a manner neither comporting with his expectations, nor, as he flatters himself, with those of his Imperial Majesty the Sultan ; and, although it has been publicly asserted in the journals of a certain European power, that it was by its interference the treaty was not terminated, yet I assured his excellency that the President of the United States believes that the Sublime Porte is too conscious of its own dignity, and how much is due to its character in the estimation of the world, not to remove all ground for suspecting such subserviency to other powers. Desirous, therefore, of at once evincing his high regard for his Imperial Majesty, and his confidence in the sincerity of the invitation alluded to, the President has nominated a new commission, composed of the commander-in-chief of the United States' naval forces in the



Mediterranean, David Offley, Esq. American consul for Turkey, and myself, one of the oldest American merchants trading to the Levant. That, in order to ascertain the sentiments of his Imperial Majesty, and to form the basis of a treaty, I had come to Constantinople alone, but that my colleagues were at Smyrna, ready to proceed here, and conclude it. It was, therefore, by virtue of this power, I had now the honor of presenting myself before his excellency, to announce that I was ready to treat with him, and to form a convention based on principles of perfect reciprocity, and such as comport with the character of two great and powerful nations; and which, while it would afford to the subjects and citizens of each, security and confidence in their commercial transactions, would bind together in friendly relations the Sublime Porte and the United States of America.

I assured his excellency that it would personally afford me great pleasure to find that he was animated by sentiments similar to those which govern the nation I had the honor to represent—a nation *now* great and powerful, and increasing in wealth, population, and power, in a degree unparalleled in the history of the world; whose laws banish all political and religious discriminations from her intercourse with foreign States; and whose liberal institutions allow a *Mussulman* the same privileges as those enjoyed by a Christian; and, moreover, that we were a people open, candid, and sincere, in all our relations

with foreign powers, and, flattered ourselves, were distinguished for good faith. I conceived, therefore, that it would not be considered unimportant for the Sublime Porte to have so powerful and disinterested a friend as the United States of America, whose distant situation and whose principles were opposed to the chicanery and diplomatic intrigue so generally practised in Europe.

His excellency replied, that there would be no difficulty in the affair, that the subject was now before the *Camaicam*, and, in a few days, a favorable reply would be given. He asked me if I meant to remain here some time? I replied in the negative, observing I had other business to attend to, and only waited their pleasure to finish this affair. His excellency seemed to have entertained the idea that I came here merely to open the business, and that my colleagues would come and finish it; but, on learning that they would not come to Constantinople until I had fixed the basis, he said that in four days I should have a reply. After taking leave of the Reis Effendi, I went to the bureau of his excellency Beylikgi, to pay him a visit, during which he frequently took occasion to express his high opinion of the United States and their citizens.

Before my interview with the Reis Effendi, I had written the address I meant to make on the occasion, and in order that there might be no mistake made in the oral translation of it to his excellency, I *most fortunately* requested Mr Navoni to put it in French;

and, after I had examined it in that language, caused him to translate it into Turkish, to aid him in delivering what I should say; and, when I addressed the Reis Effendi, Mr Navoni desiring to impart, correctly, my meaning, *read* from the paper in Turkish what I had orally delivered in French, and when he had finished, his excellency asked him for the paper, and *kept it*.

On the 14th, Mr Navoni waited upon Beylikgi Effendi, who informed him that the Reis Effendi had sent to the Sultan, the written copy of the address I had made, and that they expected the answer of his Majesty on the following day. On the 16th, I learned, from an authentic source, that the Sultan, on reading my address, immediately directed his private Secretary to *write* an order (an unprecedented circumstance) to the Reis Effendi, to close with the Americans to their satisfaction. On the 17th, Mr Navoni waited on the Reis Effendi, who confirmed the fact that he had received the orders of the Sultan, and expressed his own gratification at the circumstance, begging that I would send for my colleagues, so that they might be here to sign the treaty during the Biaram, (the Turkish carnival,) assuring me that the business was finished on the basis of the two articles I had sent on the 10th of March. Having thus received the orders of the sovereign, and the word of the Reis Effendi, I considered the business terminated, and the subject was that evening laid before the Divan.

On the 20th March, I learned

from good authority, that \* \* \* \*  
\* \* \* \* had been, for the two preceding days, occupied in intrigues with certain members of the Divan, and that they had recommended them to adhere in demanding the 5 per cent, as the \* \* \* \* were sure that the Americans would pay it. On application the following day to the Reis Effendi for passports for the frigate, he made some difficulty, and observed that my colleagues might come by land, or, if I persisted in having the frigate, her guns must be masked. As the English and French frigates come here with their guns unmasked, I had instructed Mr Navoni to say that I would neither consent to my colleagues coming by land, nor in the frigate masked. If they came here at all, they must come as the ministers of the other powers had done, with guns run out, and our national colors at the mast head. The Reis Effendi said that, as the business was terminated, he would apply to the Sultan for a firman; and that as he had directed Beylikgi Effendi to draw up a treaty, it might be well if I would extend another, that we might compare them.

The day thereafter, I received advice from a *friend*, (high in office,) to close at once, and not let a day pass. \* \* \* \*  
\* \* \* \* \* \* \* \*

I knew too well the means which this *friend* possessed of acquiring knowledge of what was passing, to neglect his advice; and instantly despatched Mr Navoni to the Reis Effendi to request an interview, and to say I would dispense with the formality of treaty

articles, and accept the two articles we had agreed upon as a treaty ; and that, by virtue of my plenipotentiary power, which his excellency would find in the commission, I now exercised it, and wished that the treaty might be signed in this shape without a moment's delay. The Reis Effendi, however, declined this, and said the affair was finished, and the treaty then making out ; that he could not see any necessity for changing the usual mode of finishing a negotiation, and that, in a few days, the treaty would be ready to be signed.

I lost no time in preparing a treaty. \* \* \* \*

Although I had every reason to believe the Seraskier, (commander-in-chief of the army, formerly Captain Pasha, and who, in that capacity, visited the North Carolina, Commodore Rodgers,) was friendly disposed towards us, I determined to pay a visit to him, and requested his excellency to name an hour ; he fixed upon the 31st March, at 11 o'clock. I was there at the hour appointed, but found him engaged in reviewing a corps of artillery in the square before his palace. On seeing Mr N. and myself, he sent his Secretary to conduct us to his own chamber, where he begged we would remain until he had finished the review. We had been there but a short time, before \* \* \* \* \* made his appearance, and who, with insufferable impertinence, walked into the room where we were, and evinced a determination to intrude himself at the interview I

was to have with his excellency. As a contrast to this impudence, Mr Franchini, chief drogoman to Russia, on opening the curtain, and seeing us, instantly retired, and waited in the lobby : he afterwards expressed his disgust at seeing the impertinent intrusion of \* \* \* \* \*. Determined to defeat his attempt to be present, I told Mr Navoni that we must leave the palace until this fellow withdrew ; which we did. The Seraskier, on seeing \* \* \* \* walk into the palace, sent his Secretary to place us in another chamber, but he arrived too late ; the \* \* \* \* having entered the room we were in. The Secretary told Mr Navoni, afterwards, that the Seraskier was much pleased at my conduct in retiring.

When I was admitted to his excellency, I was received with great kindness. He said he had always been attached to our country and its citizens ; and felt a great desire to see the two nations in amity : and, although the business might be considered as finished, yet, as a friend, he begged me to lose no time in *finally* closing the treaty. He said he had reasons for giving this advice, and assured me that I might depend upon his friendship ; but he begged me to let no trifling difficulties impede the conclusion ; there was no time to be lost. I told his excellency that I was waiting impatiently for the Reis Effendi to appoint the hour when we should finish the treaty ; that it was prepared ; and only waited the ceremony of signing. I cordially thanked his excellency for his friendly disposition, assuring



him that I should profit by it; at the same time intimating that I was no stranger to the circumstances which prompted him to give me this friendly advice. He repeated it, and said I might rely upon his efforts: he said he expected the Reis Effendi would fix upon the 3d of April for the interview.

On leaving the Seraskier's palace, Mr Navoni went to the Porte, where the Reis Effendi told him that he had appointed Saturday, the 3d of April, for the interview, and he would see me at his palace.

On the 2d of April, I learned that \* \* \* \* \* had been active, and that *Perteve* had actually gone so far as to lodge a written notice, or protest, against the conclusion of the treaty, alleging that he had conducted all the negotiations with the Americans on the principle of their paying five per cent duty, and that he knew they would pay it. The Reis Effendi, finding the business thus arrested, proposed that a committee of the Divan should be appointed, to be present at the intended conference with me. This was agreed to; and the Reis Effendi, the Chancellor of State, and the Secretary of State, were nominated for that purpose.

On the 3d of April, I repaired to the palace of the Reis Effendi, at eleven o'clock, where I found his excellency and the other gentlemen named as the committee, and the drogoman of the Porte, (a native Turk.) Notice had been given at the Porte, the preceding day, that today no business would be done there in conse-

quence of this conference. It was of course known to all the drogomen and ministers that I was there.

After some desultory conversation about America and its improvements, the Reis Effendi observed 'that he would be much gratified, personally, to be the one who should finish the treaty between the Porte and the United States; and, as both were equally desirous of entering into amicable relations, he hoped there would be no difficulty.' I assured his excellency that, on the part of the United States, there existed a similar desire to be in amity with the Sublime Porte; and, as we required nothing but what was based upon principles of perfect reciprocity, I hoped the affair would now be finished. His excellency then said that his predecessor had asserted, before the Divan, that, from the commencement of negotiations, he had invariably demanded five per cent duties, and that we were willing to pay it. I expressed my surprise that *Perteve* could have asserted such a thing; for the very circumstance that rendered the negotiation of last year abortive, was his persisting in demanding the five per cent; and that Mr Offley, finding this to be the case, instantly demanded his passports: and, although pressed to remain, with the spirit that characterizes Americans, he repeated his demand for passports, and departed. That, in my interview with *Perteve*, when he spoke of the five per cent, I told him it was totally out of the question; the United States would

never submit to the indignity of being received on a footing less than the highest power of Europe, or of paying more duties than the most favored nation ; and these facts I hoped would convince his excellency that the representation of *Perteve* was entirely without foundation, and that, in no instance, had an American agent listened, for a moment, to any such proposition.

The Reis Effendi, after some conversation with the Chancellor and Secretary, then asked me if I had not consented to have five per cent inserted in the treaty, with some understanding that it should only last for a certain time, or that it might be rendered null by a secret clause? I mentioned that, during my conversation with *Perteve*, I had stated, that as he had intimated to Mr Offley that he wished to have the five per cent inserted in the treaty in order to enable the Porte to make better treaties with France and the other powers, and which Mr Offley refused to admit in any shape, yet, to give the Porte a proof of the friendly feeling of the United States, and to aid them in procuring treaties with the other powers, *for my part*, I would consent to have it inserted in the treaty, but with a private and express stipulation that it was for that purpose alone, but that the basis of the treaty should be on the footing of the most favored nation: that *Perteve* declined this private article, observing that he must be guilty of a lie if he sent the ostensible copy of that treaty to the foreign ministers, and granted me a private article, and proposed making it four per

cent, which I declined ; and told him no officer of the United States could consent to pay a fraction more duty than any other nation ; and that these were facts, I appeal to Mr Navoni, who confirmed them. His excellency then said, that, as this was the only point now in dispute, and that I was formerly willing to accede to the five per cent either until the treaty was ratified, or by doing it away altogether by a private article, he hoped I would consent now, and the business would be finished. I remarked in reply, that it was true, at the period I landed here, I would have been willing to accede to that arrangement in order to *serve them*, but circumstances now rendered *that* impossible. I told them that \* \* \* \* had openly boasted, and published, even in their newspapers, that it was by their means the late negotiation had been frustrated ; and that, although the President of the United States could not for a moment allow himself to believe that the Sublime Porte would permit such an indignity, yet as I had discovered since my interview with *Perteve* that this was really a fact, I could not consent to have this inserted in the treaty ; consequently, I must have one based on terms equal to the most favored nation, or I would have none. I begged his excellency to remember that it was by invitation of the Sublime Porte, I came here, and they certainly could have no idea of the power of the United States, or they would not think of proposing to place America on a footing beneath the secondary powers of Europe ; and I took occasion to

remark that the United States were inferior to no power on earth; that we had treaties with all the nations of Europe, the Porte excepted, and that these were chiefly sought for by them; that in war we had evinced our strength with the two greatest powers of Europe, and had defeated them; and I presumed that his Imperial Majesty would not give an invitation to form a treaty, and insult our nation by placing it among, *and even below*, the inferior powers. If, therefore, the invitation, and their personal assurances to me were sincere, there could be no difficulty, and we might now close the treaty; for I asked for nothing that was not just, fair, and honorable; and hoped his excellency would not make pretensions which I could not admit, as, on no account, could I permit the dignity of our national character to be touched. His excellency then said, if I would consent to have the five per cent inserted in the treaty only until it was ratified, the business should be closed. I replied that, as I knew this proposition to have originated with \* \* \* \* \*  
\* \* \*, much as I personally wished to accommodate the views of the Sublime Porte, as an American officer I could not for a moment listen to any such proposition. His excellency then observed that I ought not to pay attention to what other powers said, but pass their assertions without heeding them. I replied, that if ever they became fully acquainted with the Americans, they would find that they were an open and sincere people, and utterly despised the intrigues so gen-

erally used by the European powers; and as I now was well assured that the intriguants \* \* \* \* had mingled in this affair, I could not admit further discussion on the subject; for, if the idea was intended to be persisted in by the Porte, the negotiation must be considered as terminated, and that I should immediately demand my passports.

His excellency intreated me not to be so decisive, but take a day or two to consider. I replied, that, personally, it was most painful to my feelings to find that my efforts had been in vain, for I had now spent six months in this business, and had been a great portion of the time at sea, in a stormy winter; but any proposition of the kind he alluded to, was a thing that touched our national honor; and, as an American, I could not permit it, or, if I did, I dare not return to my country.

A lengthy discussion then ensued on this topic: the Reis Effendi showed much management and cool argument. I met the latter in the best way I could, and believe, that, in no instance, was I found deficient; on the subject of national honor I was warm, and spoke in a language that alarmed Mr Navoni and the drogoman of the Porte, (who repeatedly begged me to change the sentiment, but I would not.) Seeing that nothing further could be done, I told them that I considered the business ended, and the subject of a treaty closed. I mentioned, however, that it became my duty to inquire of his excellency in what light the Sublime Porte would view vessels from America bound to the Black Sea, and



whether they would be allowed to pass freely. His excellency replied, that, until a treaty was made, American vessels could not pass the Bosphorus. I remarked, with some warmth, that this was a most extraordinary measure on the part of the Sublime Porte, for, by the treaty of Adrianople, the navigation to and from the Black Sea, was declared open to all nations, and that the Emperor of Russia had declared so, in his proclamation, to the world; and relying on this, the President of the United States had, in his message to Congress, announced that the Black Sea was open to our commerce, and numbers of American vessels had been fitted out for that quarter, and some were daily expected; that, since the Sublime Porte had given this construction to the subject, is now became my duty, instead of returning to America, to proceed immediately to St Petersburg and obtain from the Emperor of Russia an explanation of this most extraordinary measure. A considerable pause ensued, during which the three high dignitaries whispered to each other. The Reis Effendi then said this is a matter of vast importance, and could not be concluded in a single day; that he wished me to take some time, and reflect. I replied that no reflection was necessary, as the *dignity* of my country I conceived was touched in a very delicate point, and nothing could induce me to allow *that*, however much it might be detrimental in procuring a friendly compact between the two nations. His excellency pressed

me to take time, and said it would be pleasing to himself if I would only give it one day's reflection. I assured him that the more I reflected upon the subject, the more firm I was convinced would be my determination; but, in return for his excellency's friendly reception, and the urbanity I had in every instance experienced from the high dignitaries of the Turkish empire, I consented to wait till to-morrow: and if, unfortunately there was no change in the present aspect of affairs; I should immediately depart for Russia. I then took leave, the ministers rising from the Divan to salute me; the interview lasted four hours. I spoke in French to the drogoman of the Porte, and he used the same language in conveying to me what the Reis Effendi said; Mr Navoni taking care that everything was perfectly understood, and explaining when he conceived the drogoman did not fully or correctly convey the idea. On the 5th of April, Mr Navoni conveyed to the Reis Effendi my determination to proceed to Russia unless an immediate arrangement was made. His excellency said that the affair should be forthwith laid before the Divan, and the Sultan's determination would be had in a few days.

I learned on the 7th the subject was laid before his Majesty, and that he had given orders to finish the treaty in the manner I required. The Reis Effendi also sent me a message that he would appoint an early day in the following week to see me, and close the business.

On the 11th, the ministers of

Russia, France, and England, delivered to the Porte the protocol respecting Greece. I could have wished that our business had been finished before this instrument reached Constantinople, as it cannot but sour the members of the Divan, and I fear the question will cause fresh troubles in Europe.

On the 12th, the Reis Effendi informed Mr Navoni that he had appointed next day for an interview, and that horses would be at the landing place to receive me in the customary style of ambassadors, expressing also a wish that publicity should be given to the circumstance, and observing that it would be announced to the drogoman that there would be no business transacted at the Porte the following day, as the American commissioner was to have a conference.

On the 13th, I repaired to the palace of the Reis Effendi, where I found the same ministers as on the third instant, together with the drogoman of the Porte. After the usual ceremony of pipes and coffee, the Reis Effendi asked me if I still continued in the same opinion as at the last conference? I assured him, that on that point I was unalterably fixed. He then said, that the Sublime Porte desirous of giving a proof of their friendly feeling towards the United States, had ordered a treaty to be drawn up in strict conformity with the one I had submitted, and that he had now the honor of presenting it. His excellency said that he hoped this proof of good will would be duly estimated by the President of the United States of America, and that this treaty would be the

means of extending our mutual intercourse, and of perpetuating the alliance now formed. He said that he was peculiarly gratified in being the organ through whom this negotiation had been terminated, and expressed his own personal good feeling towards our country and its citizens. I replied that, on the part of my country, I reciprocated most cordially the wishes he had just expressed, and assured his excellency that the President of the United States would fully estimate this friendly act on the part of the Sublime Porte; and that, on my return to America, it would be equally my duty and my pleasure to inform the President and my fellow-citizens how much I feel indebted to his excellency, and the other dignitaries of the empire, for the kindness and urbanity I have experienced from them since the commencement of this negotiation, and for the high opinion they have invariably expressed in favor of my country.

His excellency expressed a desire that I would remain here as minister, assuring me that it would be gratifying to the Sublime Porte. I told him it would afford me personally great pleasure to remain, as I was much pleased with Constantinople and with his countrymen, but that the interests of my family required my presence elsewhere. On taking leave, they all arose from the Divan, and saluted me.

Conceiving that I would be hazarding the interests of the United States by leaving the business unfinished, I intimated to the Reis Effendi, by a special message, that I wished the treaty to be signed and

exchanged as soon as possible, and that I would exercise the plenipotentiary powers granted me by the commission, and terminate the affair at once. His excellency was pleased with the proposition, and promised to have copies of the treaty drawn up for signature and exchanged; but, notwithstanding my constant importunities, it was not until the sixth of May, when he said the instruments were ready, and he had appointed the next morning for signing and exchanging them. He intimated that I would be received in the usual style of ambassadors on concluding a treaty, and that horses would be ready for myself and attendants at the landing place in Constantinople. Accordingly, on the 7th of May, I repaired to the palace, where I found the Reis Effendi, the Secretary of State, and the drogoman of the Porte. The Reis Effendi, after a short conversation, signed and sealed the treaty in Turkish, and I did the same with the French translation; and we exchanged them. His excellency expressed nearly the same ideas he did on the conclusion of the negotiation; and I reciprocated his friendly wishes, expressing my personal gratitude for the manner in which I had been received and treated since my arrival in Turkey.

It would be an act of the highest injustice, were I not to express my warmest gratitude to Nicholas Navoni, Esq., our worthy and talented drogoman, whose conduct in this negotiation has been beyond all praise.

In this delicate and difficult affair, he has evinced the utmost

zeal, integrity, and honor, and I strongly recommend him to the consideration and protection of your excellency. His intimate knowledge of the Turkish language, the high confidence which I have perceived the dignitaries of the empire reposed in him, combined with his native talent, assure me that our country has been very fortunate in obtaining the services of so valuable an officer, and I trust its gratitude will be evinced by making his permanent appointment an honorable and respectable one.

In compliance with the instructions of the honorable Mr Van Buren, I have despatched a special messenger for my colleagues to repair here and sign the treaty. The business, however, is already accomplished, and, I indulge a hope, to the entire satisfaction of your excellency.

With profound respect, I have the honor to be, your obedient servant,  
CHARLES RHIND.

TO ANDREW JACKSON,  
President of the United States.

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*Mr Rhind to the Secretary of State — Extract.*

Constantinople, June 1, 1830.

‘I have the honor of enclosing a copy of the treaty which I negotiated with the Sublime Porte, and I trust my conduct in this most delicate and difficult negotiation, will merit the approbation of the President and yourself.

It was necessary to show the Sultan that *something* had been granted for the concessions he had made, and our Turkish friend suggested the private article. You will perceive that it is a *per-*



*fect nullity*, in giving only the privilege of consulting with our minister about the best mode of making a contract to procure ships or ship timber; and, moreover, the Reis Effendi said that if the President was not disposed to sign the article, it would be of no consequence, and the treaty would be ratified without it; but added that it would be pleasing if the whole are accepted, in order to lay them before the Sultan at the final ratification.'

*Captain Biddle and Mr Offley to the President.*

Constantinople, June 8, 1830.

SIR: We have the honor to transmit, herewith, a copy of a treaty signed by us in French on the part of the United States, with the Sublime Ottoman Porte, together with a separate secret article. As there exists a difference of opinion between us respecting the secret article, we shall make, as to it, separate communi-

cations to the honorable the Secretary of State. We also transmit the original in Turkish, signed by the Reis Effendi on the part of the Porte.

The presents made by us will be covered by the sum authorized to be expended upon effecting a treaty. The whole expense incurred, will exceed the sum authorized. The excess, however, will be of trivial amount.

We have the honor to be, with great consideration and respect, your most obedient humble servants,

JAMES BIDDLE.

DAVID OFFLEY.

To ANDREW JACKSON,  
President of the United States.

Mr Rhind declines signing the above. He disagrees with us as to the propriety of forwarding these documents by a public vessel of the United States, and informs Mr Offley that he intends to protest in the British chancery against our doing so. We, therefore, forward this communication without his signature.

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*Correspondence relating to the Treaty between the United States and Denmark.*

*Extract of a letter from Mr Clay to Mr Wheaton, Chargé d'Affaires at Copenhagen, dated*

May 31st, 1827.

The President having, by and with the advice and consent of the Senate, appointed you Chargé d'Affaires to the King of Denmark, and you having notified the department of your acceptance of the appointment, and

that you will be ready to depart on your mission by the middle of next month, I transmit, herewith, your commission, together with a letter of credence, to be presented by you to the Danish Minister of Foreign Affairs, on your first interview with him. You will proceed to Denmark by such conveyance, at your own expense, as may be most agreeable to you.

On your arrival at your post, it will be your duty, generally, to take care of the interests of the United States, and of their citizens; in the discharge of which, you will be governed by such instructions as may now or hereafter be given to you; and where these are silent, by the public law applicable to the particular case calling for your interposition.

The extent and importance of the relations which exist between the United States and Denmark, perhaps required, at an earlier period, that we should have a representative at the court of his Danish Majesty; but considerations of economy had heretofore delayed the appointment. The treaty recently concluded at Washington between the United States and Denmark, and the great value of the commercial intercourse between the two countries, which it is hoped that treaty may serve still further to strengthen and increase, did not appear to the President to admit of longer delay in instituting a permanent mission to Denmark. You will accompany these explanations with an assurance, to the Danish Government, of his wish to see the amicable relations between the two countries long preserved and invigorated.

Among other means of effecting that desirable object, a satisfactory arrangement of the claims of American citizens for injuries committed on their commerce during the late European war, would have the happiest tendency. These aggressions were inflicted during the years 1808, '9, '10, and '11, on various pretexts.

The amount of property of which American citizens were unjustly deprived, was very great, and the interruptions to our lawful trade in the Baltic, were very numerous and highly vexatious.

Early in the year 1811, the President of the United States determined on a special mission to Denmark, to arrest the progress of capture and condemnation of our vessels, then threatening the total destruction of our trade in the Baltic and adjacent seas, and to demand indemnity for the past. Mr G. W. Erving was selected for the service, and proceeded to Copenhagen.

His mission was attended with only partial success. He was able to prevail on the Danish Government to repress some irregularities, and to check the condemnation of most of our vessels whose cases were then pending, or which were captured and brought into port after his arrival; but he was not able to procure satisfaction in case of erroneous or unjust condemnation by the Danish tribunals. At the close of his mission, he was, however, assured by Mr De Rosenkrantz, Minister of Foreign Affairs of the King of Denmark, in an official note under date the 8th day of May, 1812, that 'if his Majesty could be persuaded, that, in particular cases, it should happen that appearances might have prevailed in the examination of some causes, to the detriment of some American citizens who might not have been able to demonstrate, sufficiently, that their enterprises of commerce were legitimate, he would assuredly be led to redress

just complaints, as he has, on several particular occasions, given proofs of his favorable disposition towards the American vessels which circumstances have conducted to the ports of his kingdom. The King wishes, therefore, to give, himself, proofs to the Government of the United States, of the sentiments of justice with which he is animated. The undersigned flatters himself that the President of the United States will easily be persuaded, that, during so hard a contest as that which Denmark now sustains against the Government who so evidently disavows the rights of nations engaged in navigation, *the moment* is not favorable to bring anew, under consideration, the reclamations which the Government of the United States may find it convenient to make, at that period, in relation to the objects in discussion.'

Copies of the instructions which were given to Mr Erving, together with his correspondence during his mission, are now furnished you, and your attention is particularly directed to his note addressed to Mr De Rosenkrantz, under date the 4th November, 1811, with the statement accompanying it, as exhibiting, in detail, most of the claims of American citizens upon the Danish Government, for indemnity, and the grounds on which they depended.

From the period of those instructions and correspondence, you will perceive the nature of our claims, and the objections which were urged against the allowance of them by the Danish Government. The discussions

which occurred between Mr Erving and Mr De Rosenkrantz, are so full as to render unnecessary any other than a few observations which I have to offer.

The allegations on which the seizure and condemnation of American vessels and their cargoes, were made, and attempted to be justified, were principally three.

1. The possession of false and simulated papers, by which, it was alleged, an American character was stamped on British property.

2. Sailing under British convoy, whereby, it was alleged, our vessels lost the immunities of our flag, and subjected themselves to be treated as British property; and,

3. The possession of French consular certificates of origin, after the French consuls were forbidden to give them, except to vessels sailing direct to French ports.

With respect to the first ground, supposing a British vessel, by means of false and fraudulent papers, to have assumed the guise of an American vessel, there can be no doubt that she could not, in virtue of these same papers, justly escape condemnation on trial before a Danish tribunal. That there were instances of such fraudulent assumptions of the American flag during the late wars in Europe, is undeniable. The American Government far from affording them any favor or countenance, would have been the first to denounce and punish them. In cases of that sort, the question is not as to the principle of con-



demnation, but as to the *fact*. And as the cupidity of the Danish cruisers was stimulated to make out real Americans to be British vessels covered by American papers, and as, by means of the force which they commanded, they possessed themselves of vessel and cargo, and persons and papers on board, and were, thereby, enabled to shape the evidence to promote the interests of the captors, many condemnations, it is believed, took place of genuine American vessels. Compensation is claimed by the Government of the United States, in cases where the property of the American citizen has been thus sacrificed.

The right of the Danish Government to capture and condemn American vessels, because they had been protected by a British convoy, cannot be admitted. It is denied whether the protection was, as to the protected vessels, voluntary or involuntary. In point of fact, in several instances, they were compelled by superior force to join the convoy. In cases of that description, it is manifest that they did not subject themselves to lawful condemnation, when captured by Danish cruisers, unless the monstrous principle is to be maintained that the illegal application of superior force by one belligerent to the property of an innocent neutral, creates, in consequence thereof, a right in another belligerent to that property, whenever he can violently seize it.

But supposing the convoy to have been voluntarily sought by the American vessel, the right of

capture on the part of the Danish cruiser is still denied. Why should such a penalty be incurred for such an act? It is said, that, by placing themselves under the British protection, they took sides with the enemy of Denmark, and, thereby, entitle her to consider them as inimical. But for what purpose was the protection assumed? Surely in the ravages to which neutral commerce was exposed in every sea, and from every European nation in that disastrous period, an innocent motive may be presumed on the part of a neutral who should endeavor, under the cannon of one, to guard himself against the wrongs of all; in the case supposed, the American vessels did not join the British convoy to combat Denmark, or any other power, but for the justifiable purpose of innocently pursuing their lawful commerce, and avoiding all unjust assailants. They were unarmed, and in no condition to fight any one. By accepting the protection of the British convoy, they neither added to the strength of the British arms, nor increased the weakness of Denmark. The effect, in fact, of their joining the convoyed fleet, was to weaken rather than strengthen the British force, since it expanded the sphere of its protecting duty. If a friend's goods found on board an enemy's vessel are not, (as undoubtedly they are not) liable to condemnation, why should a friend's vessel, consorting with an enemy's fleet of merchantmen, which are the protection of a public vessel, be deemed subject to seizure and condemnation?

The property of the friend and the belligerent is much more intimately blended in the former case, than in that of a ship of a friendly nation accidentally taking refuge, for a short time, among a number of merchant vessels enjoying the protection of a public ship belonging to the enemy of another nation.

The third ground of capture and condemnation of American vessels assumed in Denmark, that of their being possessed of French consular certificates of origin, after the French consuls were prohibited to issue them, except to vessels bound directly to French ports, was not true in point of fact. It seems that the French consuls were accustomed to give those certificates to any American vessel applying for them, without regard to their port of destination, except that it was a port of France, or of a neutral, or an ally of France. The French Government forbade the granting of these certificates to any other vessels than those bound directly for the ports of France; but the orders to that effect did not reach the French consuls in America until the 13th November, 1810, prior to which those certificates bore date, which were made the pretext for the seizure of American vessels by the Danish cruisers. Even if the certificates had not been genuine, as was supposed contrary to the fact, that would have been no justifiable cause for the capture and condemnation of a vessel under Danish authority. It might have warranted the detention of the vessel, and, possibly, her condem-

nation in a French tribunal: as to Denmark, a French certificate of origin, genuine or false, was a paper altogether unimportant and superfluous.

Upon these and other grounds, a large amount of American property was condemned by the Danish tribunals; and, in many cases of acquittal of American vessels, they were not only not indemnified for the detention and losses incident to their capture, but were sometimes obliged themselves to pay costs and damages.

It is due to the Danish Government to state, (and the acknowledgment is made with satisfaction) that, after the arrival of Mr Erving, an efficient interposition of its authority was made in most instances, to prevent additional condemnations of our vessels, and to prevent further excesses of the Danish cruisers. I regret that the truth of the case does not authorize a similar testimony to the justice of his Danish Majesty, in redressing, at that period, wrongs which had been perpetrated under his authority. Nor were the reasons assigned by his minister, for withholding satisfaction, such as could be deemed sufficient, or could communicate any consolation to the American sufferers, for the sacrifice of their property.

Those reasons were, that the King of Denmark could not 'permit a revision of the sentences pronounced, terminating the causes arising from captures made by the cruisers under the flag of the State.'

'The principles which have formed the basis of the privateer

regulations, and which have not been lost sight of in giving the instructions to the tribunals charged to examine in matter of prizes, are the same as those generally received, and according to which, the Danish tribunals of the admiralty judge and decide on the captures of vessels under other flags than that of the United States.

‘The special minister will be pleased to find, in this assertion, which is founded on the facts he may have made himself acquainted with since his residence here, that the American flag has, upon all occasions, been treated in the maritime tribunals conformably to the rules established, precisely in the same manner as the neutral flags of Europe.’

‘The undersigned is moreover authorized to observe to Mr Erving, special minister of the United States, that, if permission were given to the captured who have pleaded before the tribunals which have decided by a definitive sentence between the parties, to make, in their favor, revision of the causes terminated, the same indulgence shall be given to the captors who might complain of the sentences pronounced against them; and that, in this manner, the causes arising from prizes would experience indefinite delays as prejudicial to the captured as to the captors.’

The demand which Mr Erving was instructed to make, and which he did make, was not for a *revision* of the sentences of Danish tribunals, against which we had a right to protest as having been pronounced in derogation of the

public law, but for the indemnity to which American citizens were entitled in consequence of those unjust decisions. The Government of Denmark was, and is, of course, free to adopt any means it may deem proper, to satisfy itself of their injustice, one of the most natural of which would be a discussion of the cases complained of, conducted in a respectful and friendly spirit, under the sanction of the two Governments. But if, in the arrangement of the tribunals of Denmark, his Danish Majesty has not thought proper to allow any further judicial examination of those decisions, it does not follow that a foreign Government is to regard them as infallible, or must agree that Denmark may entrench herself behind them, from the responsibility which she lies under to the citizens of such foreign Government, in consequence of the injustice sustained by them under those decisions.

Even in the case of decisions by the ordinary tribunals of a country, although the general presumption is that they are correct, this presumption does not always prevent a foreign citizen from making out the injustice of a particular decision, and invoking the aid of his own Government to obtain redress from the Government of the erring tribunal. But the ordinary tribunals of a country acquire a right to exercise their authority over the person or property of a foreign citizen, in consequence of his voluntary act in bringing himself or his property within its jurisdiction. Not so when courts of admiralty



increase their powers on vessels captured at sea. There the property of foreigners is brought by force within the jurisdiction of these courts. It would then be strange if their decisions were to be held more binding and conclusive than those of the ordinary tribunals.

The tribunals of any country are but a part, and a subordinate part, of the government of that country, but the right of redress against injurious acts of the whole government — of the paramount authority, incontestibly exists in foreigners; much more clearly, then, must it exist when those acts proceed from persons, or from tribunals responsible to their own government, but irresponsible to a foreign government, otherwise than by its action on their government.

The injustice of his Danish Majesty's considering the decisions of his high court of admiralty as absolutely binding and conclusive upon foreign nations, without any examination, is manifest from a single consideration growing out of the convoy cases. The American vessels which had been under British convoy, were liable to condemnation only in virtue of the clause of the eleventh article of the royal instructions of the 10th March, 1810, declaring, as a cause of condemnation, 'the making use of English convoy.' These instructions were adopted and promulgated by the King of Denmark, and were the authority of his cruisers to capture, and the law of his tribunals to condemn American vessels in the specified contingency. When the Ameri-

can owner objects to the condemnation of his property, he is told by the Danish tribunal that it is the inevitable result of the royal instructions, operating upon the fact of his having been under British convoy: Well! the injured American applies for redress to his Majesty, whose minister tells him that he cannot *per-mit a revision* of the sentences of his tribunals. Thus the Danish tribunals retreat behind the King, and the King behind his tribunals, and, between both, the American citizen is unlawfully divested of his property.

It is said by Mr De Rosenkrantz, that, if permission were given to the captured to have the decisions of the Danish tribunals revised, in cases of condemnation, a like permission must be given to captors in cases of acquittal.

Mr De Rosenkrantz appears erroneously to have treated Mr Erving's application as one for a judicial examination of the judgments of the Danish tribunals, in the nature of an appeal, to be prosecuted according to all the forms of law; but I have already stated, that that was not his application. It was for indemnity for wrongful captures, followed by wrongful condemnations, of American property. But it may be said, that, if indemnity be made in such instances, it ought always to be made in cases of rightful capture, followed by wrongful acquittal of American property. No such cases are understood to have been presented to the Danish Government. If there be any, it belongs to the equity and wisdom of his Danish

Majesty, to consider whether he will not make redress commensurate with the wrongs which have proceeded from his tribunals, whether inflicted on his own subjects, or upon foreigners. If he does not choose to do it — if it be impossible to give to his reparation a scope so comprehensive, we cannot agree that it therefore follows, that he ought to do nothing in behalf of American citizens. If the reason assigned were good, it would have the effect of preventing redress in any case whatever, of an erroneous decision pronounced to the prejudice of a foreigner.

But the condition of the Danish subject and the American citizen — the captor and the captured, is widely different. The tribunal deciding, is the tribunal of the *captor*, instituted, appointed, paid, controlled by his government. The American citizen is forced, contrary to his will, within the jurisdiction of this tribunal, in which he is not represented, and which cannot be supposed to have any sympathies with him. To a demand, therefore, for redress, on the allegation of an erroneous acquittal to the prejudice of a Danish subject, and founded on the precedent of indemnity made to an American citizen, in consequence of an erroneous condemnation, the Dane may be satisfactorily told, that his case has been tried by his own tribunal, with all the advantages resulting from that fact, and from the trial taking place at his own home, with his knowledge of the language of the country, the laws, and the habits and practices of

the tribunal; and that, therefore, he has no cause to complain, nor right to redress.

Upon the termination of Mr Erving's mission in the spring of 1812, he left Mr Forbes as an agent of American claims, in which character he was recognised by the Danish Government. His long residence at Copenhagen, was altogether unavailing, in procuring satisfaction of our claims. A copy of so much of his correspondence, as it may be useful for you to possess, accompanies these instructions.

In the fall of 1818, Mr Campbell, appointed minister of the United States at St Petersburg, on his way to that capital, stopped at Copenhagen; and, in an interview with Mr De Rosenkrantz, stated, that, although not instructed to renew the discussion of our claims at that time, he had it in charge to state to him, 'that my Government, entertaining the strongest conviction of their justice, had not, and could not think it their duty to abandon them.' A copy of Mr Campbell's despatch, giving an account of that interview, is herewith.

In August, 1825, Mr Hughes, on his way from Stockholm to the Netherlands, to which he had been recently appointed Charge de Affaires of the United States, was directed to call at Copenhagen, and repeat the demand for satisfaction of the American claims. Accordingly, in execution of this duty, on the 5th of that month he presented a note to Count Schimmellmann, the Danish Minister of Foreign Affairs,

urging anew the indemnity which had been so long delayed. On the 17th of the same month, he received an answer, in which the ground is again taken of the irreversible character of the sentences of the high court of Admirals. Mr Hughes, in a despatch addressed to me, under date of the 19th of August, giving an account of his mission, says, 'the general result of his observation during his short stay of 18 days, is, that there does exist a disposition to go into an examination of the claims, which the owners of them may perhaps turn to a favorable account — a disposition produced by views and calculations of the importance of our trade, and of the benefits to be derived from a commercial convention. The owners of the claims must consent to forget, in a great measure, their justice, and to take up the subject on the more liberal principle of compromise.' There is 'neither the will nor the ability to pay the whole.' A copy of the correspondence, incident to Mr Hughes's mission, is now furnished you.

Finally, at the moment of the signature at Washington, on the 26th day of April, 1826, of the general convention of friendship, commerce, and navigation, between the United States of America and his Majesty the King of Denmark, I addressed a note to Mr Pederson, of which the following is a copy :

Department of State, }  
Washington, April 25, 1826. }

'The undersigned, Secretary of State of the United States, by direction of the President there-

of, has the honor to state to Mr Pederson, minister resident of his Majesty the King of Denmark, that it would have been satisfactory to the Government of the United States, if Mr Pederson had been charged with instructions in the negotiation which has just terminated, to treat of the indemnities due to citizens of the United States, in consequence of the seizure, detention, and condemnation of their property, in the ports of his Danish Majesty. But as he has no instructions to that effect, the undersigned is directed, at and before proceeding to the signature of the treaty of friendship, commerce, and navigation, on which they have agreed, explicitly to declare, that the omission to provide for those indemnities is not, hereafter, to be interpreted as a waiver or abandonment of them by the Government of the United States, which, on the contrary, is firmly resolved to persevere in the pursuit of them, until they shall be finally arranged upon principles of equity and justice. And to guard against any misconception of the fact of the silence of the treaty in the above particular, or of the views of the American Government, the undersigned requests that Mr Pederson will transmit this official declaration to the Government of Denmark. And he avails himself of this occasion to tender to Mr Pederson assurances of his distinguished consideration.'

H. CLAY.

'The Chevalier PEDERSON,  
Minister Resident from Denmark.'

Such has been the persevering pursuit of the American Govern-



ment, after a just indemnity to the injured citizens of the United States for sacrifices of their property, captured by the cruisers and condemned by the tribunals of Denmark. Far from being discouraged by the ill success of past endeavors, the American Government is resolved to continue to demand satisfaction until it is finally obtained. This satisfaction it has a right to expect from the justice itself of the claims; it has a right, moreover, to expect it from the pledges given to Mr Erving, in 1812, by Mr De Rosenkrantz.

The President, therefore, indulges a confident hope that you will be able, from the views which are here presented, and from such additional lights as you may throw on the subject, to make the Danish Government sensible of the injustice of longer persisting in withholding indemnity.

With respect to the mode in which the amount should be ascertained of what is due to American citizens, the President would prefer that it should be by a board of commissioners, in a similar manner to that which was organized in virtue of the 7th article of the treaty of 1794, between the United States and Great Britain. This board may be also authorized to decide on any claims of Danish subjects against the Government of the United States.

But the mode of ascertaining the amount is less important than the object of procuring the indemnity itself. Attending to the suggestions of Mr Hughes, that the affair should be taken up on the most liberal principles of compro-

mise, and that there is neither the ability nor the will in the Government of Denmark to make full satisfaction, if you should find your efforts unavailing to get a board established, you are then authorized to say that the Government of the United States will agree to a basis formed on the principle of a compromise, and will accept a gross sum as a complete discharge of all claims arising from illegal or irregular captures or condemnations of American vessels and other property, and you will invite the Danish Government to state the sum which it would be willing to pay, and communicate it to this department.

The President would yield with great reluctance to the principle of accepting, in any case, a less indemnity for wrongs done to American citizens, than what would amount to a full reparation; but there may be circumstances which would render it expedient to receive a present and imperfect satisfaction, rather than insist upon a full measure of reparation at a future, indefinite, and remote time. Such circumstances are believed to exist in the present case. But we are not now prepared to fix a minimum below which you would not be authorized to accept a gross sum. And, therefore, the President prefers that you would take, ad-referendum, any that may be offered. A copy of that part of a schedule reported to the House of Representatives, at the last session, of claims of American citizens on foreign Governments, which relates to the Danish claims,

is now placed in your hands. As a further evidence of the friendly disposition of the United States to accommodate the Government of Denmark, you are also authorized to propose receiving whatever sum may be awarded by the board of commissioners, or may be accepted by way of compromise in Danish stock bearing such interest, and reimbursable at such time, as may enable the holders of it to sell it at par in the money markets of either London, Paris, Amsterdam or Copenhagen. The above arrangement, however, whether through a board of commissioners or by compromise, is to be considered as distinct from, and not comprehending the claim for the cargoes of the ships *Fair Trader* and *Minerva*, *Smyth* and the brig *Ariel*, detained at Kiel, during the year 1812; and, if a compromise should be made, it must also be understood as extinguishing any claims of Danish subjects upon this Government. The claim, on account of those three vessels, rests upon peculiar ground — that of the most manifest injustice in the application and execution of the municipal laws of Denmark to the cargoes of those vessels. The circumstances of the case are stated in Mr Hughes's letter to Count Schimmelmann, under date the 18th August, 1825, of which a copy is herewith. Mr John Connell, of Philadelphia, has been the agent of the owners of those cargoes, and has been long endeavoring to get the injustice corrected, of a retrospective operation of the revenue laws of Denmark under circumstances attending those three vessels, of

uncommon hardship. He was in the prosecution of that object in 1825, and obtained from Count Schimmelmann assurances which authorize the belief that redress will be at last afforded. It is understood that Mr Connell will shortly proceed to Denmark for the same purpose; and you are directed to afford to him such official aid and co-operation as may appear to you best adapted to the accomplishment of his agency.

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*Mr Wheaton to Mr Clay.*

Copenhagen, }  
December 31, 1828. }

SIR: Referring to my last letter on the subject of our remaining claims upon this Government, dated July 28th, and marked 'private,' I beg leave to state that a greater delay has occurred than I had anticipated, in the preliminary steps necessary to be taken in order to bring the subject in due form before the King. With the view of giving more precision to the principal basis of the negotiation which had been hitherto informally conducted between Count Schimmelmann and myself, I addressed to him, on the 26th of July, a note marked 'confidential and private,' but which I told him he was at liberty to lay before his Majesty, and of which I subjoin a copy and translation, marked A. We soon afterwards received here the 'National Intelligencer' of June —, containing a summary of the negotiation which had taken place between the Government of the United States and that of Russia, respecting the

cases of the American ships *Commerce* and *Hector*, captured by a Russian squadron in the Mediterranean, in 1807. I immediately communicated the article in the *Intelligencer* to Count Schimmelmänn, who requested the Russian legation to write to their court for detailed information respecting the circumstances of these cases, in which the Russian Government had made satisfaction to that of the United States for the injury sustained by their citizens, in consequence of the captures in question; and, particularly, to inquire whether a regular sentence of condemnation had been pronounced in each case.

I also wrote myself to Mr Middleton on the same subject.

Several weeks elapsed before the desired information was received from the Russian cabinet, probably owing to the absence of Count Nesselrode, the Minister of Foreign Affairs, with the army on the Danube. As soon as it was received, Baron Nicolay, the Russian minister residing here, (who has manifested a very friendly interest in what concerns us) communicated the papers to me before he sent them to Count Schimmelmänn. It appeared by these papers, that, in one of the cases, (the *Hector*) there had been no regular and legal sentence of condemnation; but, as the other, (the *Commerce*) was carried into Corfu, a port then in possession of the Russians, and as Count Nesselrode had not stated the contrary in his report to the Emperor, it was fairly to be inferred that this last mentioned vessel, with her cargo, had been

regularly condemned by a competent court of prize. It was therefore a case precisely in point, upon the question of the conclusiveness of admiralty sentences as between nation and nation, and in which the Emperor of Russia had made reparation for the injury complained of by our citizens, notwithstanding the sentence of his tribunals affirming the capture.

After this information was received from the Russian Government, a considerable further delay took place in the progress of our business, in consequence of the festivities connected with the marriage of the King's daughter to the son of Prince Christian, (cousin to his Majesty, and heir presumptive to the crown,) and also owing to other circumstances, over which, I have reason to believe, Count Schimmelmänn had no control. But, on the 29th of the present month, I received from him an official note, a copy of which is enclosed, marked B, to which I take the liberty of subjoining a translation, marked C, together with a copy of my answer, marked D.

As the minister's note contained in effect a waiver of the principle of the supposed conclusiveness of the sentences of the Danish admiralty tribunals, I did not think it necessary to make any remarks in my answer, upon that part of the subject, or upon the other incidental observations contained in the note, in palliation of the proceedings of the Danish Government, during the late war, which had already been sufficiently discussed in our informal conferences.



Count Schimmelman has promised me that no unnecessary further delay shall take place, in obtaining his Majesty's decision upon the whole matter, and that I shall be at liberty to converse with the other ministers respecting it, (as I had expressed a wish to do,) so soon as they can be furnished with copies of his report to the King.

I have the honor to be, with high consideration and respect, your obedient humble servant,

HENRY WHEATON.

A.

[TRANSLATION.]

*Mr Wheaton to Count Schimmelman.*

[Confidential and private note.]

July 26, 1828.

**MONS LE COMPTE:** In reflecting upon what your excellency mentioned to me in our last conference but one, I have thought that your excellency would allow me to state, in writing, the points upon which I found my expectations that you would be authorized by his Majesty to enter into a formal negotiation with me upon our old claims.

I desire, then, if it should appear proper to your excellency, that the King should be informed:

1. That I am provided with a full power from the President of the United States, to negotiate concerning, and terminate the matter of the claims which the citizens and subjects of the two nations may have against the respective Governments of each other, together with instructions adapted to all the cases which the negotiation may present.

2. That the President has desired me to express his satisfac-

tion with the measures taken by his Majesty at the time of the mission of my predecessor, Mr Erving, in order to restrain the excesses of the Danish privateers *as to the future*; and, if a complete indemnity *for the past*, could not then be obtained, it was to be attributed to the circumstances of the times, and to the extraordinary position in which Denmark found herself in consequence of the barbarous and unexpected attack of a power, which also, soon afterwards, became the enemy of the United States. We are confirmed in this supposition, by the contents of an official note, dated May 8th, 1811, written by Mr De Rosenkrantz, your excellency's predecessor, to Mr Erving, the minister of the United States at this court, in which the Minister of Foreign Affairs states the reasons which had determined his Majesty to postpone the examination of the remaining claims until a more favorable period. The note contains the following passage:

'It cannot be doubted by the undersigned, that, when a general maritime peace shall have restored tranquillity to all Governments, and opened again to navigating nations the sources of their prosperity, the Danish Government will be disposed to take into just consideration the claims which the Government of the United States may think proper to make at that period, in respect to the matters still in controversy.'

This period has long since arrived, and the Government of the United States has never abandoned the hope of finding some fa-

avorable occasion of terminating with the Danish Government the only controversy which could interrupt the good intelligence which happily subsists between the two countries. The benevolent heart of his Majesty will not fail to do justice to this solicitude of a paternal Government for the interests of its citizens, in a matter in which the welfare of a great number of families is involved.

3. That my instructions prescribe it as a duty to conduct this business with that spirit of moderation which characterizes the Government I have the honor to represent near the Government of his Majesty. In seeking the means of terminating it, we should prefer that of a *joint commission*, but if the Danish Government should appear to have any repugnance to this manner of proceeding, we might treat *en bloc*, which would also have the advantage of avoiding all thorny discussions, and of including, in one general compromise, all the objects in litigation. After having laid aside all the doubtful cases, there must remain a pretty large mass of well founded claims, but this manner of proceeding would throw upon the Government of the United States the responsibility of distinguishing between the different cases, and of distributing the sum which his Majesty may deem it equitable to appropriate for this object, among the different claimants.

I have the honor to renew to your excellency the sentiments of my most perfect consideration.

HENRY WHEATON.

To H. E. COUNT SCHIMMELMANN, &c.

C.

[TRANSLATION.]

Count Schimmelmänn to Mr Wheaton.

Copenhagen, December 29, 1828.

SIR: The King, my master, having been informed of the representations made by you, in respect to the claims interposed in favor of citizens of the United States, who allege that, during the late maritime war carried on by Denmark, the attributes of the neutral character of the ships and cargoes to them belonging and brought into the ports of Denmark and Norway, by vessels of war or privateers furnished with letters of marque, have not been duly recognized, has granted his gracious permission that a report may be submitted to him in his Council of State, containing a particular examination of the alleged injuries, and adapted to enable him to form a correct judgment of the validity of the complaints growing out of them. His Majesty manifesting this intention, notwithstanding the principle constantly followed in the Danish monarchy by him and the sovereigns his predecessors, which admits no alteration, reform or annulling, of a sentence pronounced by the official judges legally constituted, (unless in the case of pardons,) no change, and no drawing into question of the rights founded upon these sentences, which having acquired the force of law, exclude all ulterior proceedings and reparation, and secure to his subjects the tranquil possession of their property, and the undisturbed enjoy-

ment of all the rights derived from it; I flatter myself that you will recognise a proof still more manifest of the sentiments which animate the King, my master, towards the United States, and the inclination which he desires always to follow when the question is to devote attention to what you represent in the name of your Government. That his Majesty may confidently rely upon the consciousness that he has never deviated, nor tolerated or permitted the deviation of his officers from that which the most impartial justice has prescribed, either in publishing, or in causing to be executed, the laws and regulations enacted in respect to neutral commerce, even at a period when he was compelled to sustain a most dreadful contest, in the midst of circumstances the most unfortunate, when the law of nations and treaties seemed to be overthrown, and the neutrality of any power scarcely tolerated upon the continent and the seas of Europe. It would be difficult not to recognise in these principles an incontestable tendency to favor neutral commerce, and the salutary fruits which, particularly, the merchants and navigators of the United States were enabled to gather in the long period of a maritime war during which their vessels traversed the Sound and the Belts.

It is already known to you, sir, that the dates and facts which merit the greatest attention have been carefully collected and accompanied with the necessary illustrations. They will be subjoined to the report, which, as I

have already had the honor to observe, will be submitted to his Majesty upon the matter in question, in order that he may be enabled to pronounce a decision thereon, with a full knowledge of the circumstances of the case. So soon as his Majesty shall think fit to make known to me in what point of view he considers it, or what resolution he has taken, I shall hasten to communicate to you everything relating to it.

At present I have nothing to add, except the assurance of the sentiments of the most sincere esteem which you so justly inspire, and of the most distinguished consideration with which I have the honor to be, sir, your most humble and obedient servant.

E. H. SCHIMMELMANN.

To Mr WHEATON,  
Charge d'Affaires of the United States  
of America.

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*Mr Wheaton to Mr Clay.*

Copenhagen, January 31, 1829.

SIR: in connexion with the subject of my last despatch, (No 5,) under date of the 31st, of December, I beg leave to state that I had soon afterwards conversations with the different cabinet ministers relating to our remaining claims upon this Government, all of whom manifested a disposition to listen with attention to my representations, except the Minister of Finances, who, I have reason to believe, is totally opposed to any provision being made for the claims.

On the 12th of the present month, I received from the



Minister of Foreign Affairs an official note of that date, a copy of which is enclosed, informing me that H. E., together with the Minister of Justice, had been appointed by the King to negotiate with me on the business. I have since had several conferences with the Danish commissioners, which have not resulted in anything sufficiently definite to be reported to the department. At present, I can only say that they have manifested an invincible repugnance to the project of a mixed commission, and, though not unwilling to negotiate upon the basis of a compromise, have not yet hinted at any sum, which, in my judgment, the Government of the United States, taking into view the condition of the country, and the impossibility of obtaining a full satisfaction, would be willing to receive as a partial indemnity to our injured citizens.

I have the honor to be, with the highest consideration and respect, sir, your obedient, humble servant,

HENRY WHEATON.

[TRANSLATION.]

*Count Schimmelmänn to Mr Wheaton.*

Copenhagen, January 12, 1829.

SIR: I will no longer delay informing you that the King has fulfilled that which he had graciously permitted me to communicate to you, in his name, by causing a reference to be made to him, in his Privy Council, of whatever might throw more light upon a subject which he had already examined with attention, and which, from its nature, could

not but be an object of solicitude for him, since it is connected with the complaints made in the name of the merchants and seamen of the United States, that their rights had been violated during the maritime war carried on by Denmark, and that this violation had been to them the cause of losses to which they ought not to have been exposed.

The recapitulation of these complaints could not be viewed with indifference by his Majesty, for, even if the number of cases where these complaints can be sustained upon just and good grounds were reduced, it would nevertheless follow that that had happened which the King wished to prevent, and he would have to regret his imperfect accomplishment of a design, formed amidst the din of arms, of securing the commerce of neutrals from being confounded with that of enemies, and of preventing, as far as lay in his power, those vexatious proceedings to which neutrals were in danger of being exposed at a time when the protection to which they were justly entitled was almost generally disregarded and put aside.

The King found that, in order to give effect to his intentions, it was his duty to take a determination, which he immediately carried into execution, of promulgating laws framed according to the spirit of the law of nations which set forth, in its full extent, the just protection to which neutrals may have a claim, and modelled upon treaty stipulations based upon principles favorable to them.

In order to carry these laws into effect, the King thought that he could use no other means than that of organizing tribunals and appointing judges who would be governed by the provisions of those laws in the decisions and sentences which they would have to give in cases concerning vessels under neutral flag brought in by Danish ships of war or privateers.

An examination into the regulations prescribed by the ordinances with respect to what ought to constitute and guarantee the property or the expedition of the owner of a neutral vessel and cargo, which regulations have been almost generally adopted, has not weakened the King's conviction that these regulations were necessary, and that he ought to sustain them in order to prevent false neutral colors from becoming the safest means of a protecting enemy's commerce and navigation; and that this necessity must be considered as more urgent in consideration of the situation of the Danish States, in whose seas vessels under neutral flag sailed indiscriminately with enemy's vessels, and even frequently within reach of their artillery.

In order, however, sir, to enable you fully to explain the sentences which have given rise to the reclamation, I have been authorized to put you in possession, as official acts, of that which, heretofore, had been but a confidential communication, that is, the register of sentences, such as

they were given, with the grounds on which they were supported by the competent tribunals, since the year 1807, till 1812, in those cases which relate to American vessels brought in and condemned, and the explanations which precede that register, referring to data and dates worthy of attention, and whose principal object is an examination into the principles adopted by the ordinances which prescribe the basis upon which were to be founded all judgments in prize cases; as also to give all further explanations in relation thereto.

His Majesty, however, is desirous of using every means to reduce the losses to which some citizens of the United States may have been subjected, without an intention, on their part, of neglecting those forms which were to protect their navigation and their strictly neutral commercial transactions.

To fulfil this desire, his Majesty has been pleased to appoint me, jointly with Mr de Stemann, Minister of Justice, to consult with you, sir, agreeably to the full powers with which you have been invested by your Government, whether some means could be devised to attain the object above stated, and to put an end to discussions, carried to too great a length, with a power on whose friendship his Majesty places so high a value.

I have the honor to be, with the most distinguished consideration, sir, your humble and obedient servant.

E. H. SCHIMMELMANN.

*Mr Van Buren to Mr Wheaton.*

Department of State, }  
Washington, April 3d, 1829. }

SIR: Herewith, you will receive a copy of a letter from Mr John Connell, under date the 26th ultimo, to this department, a copy of a list of the parties who have authorized the President of the United States to compromise their claims upon the Danish Government, with that Government, and also a copy of a letter from some of those parties to this department.

As Mr Connell is the agent of all these parties, and of course is acquainted with their several views concerning the terms upon which they are disposed to compromise, I am directed by the President to inform you that he is willing you should be guided in your negotiations with the Danish Government, for the settlement of the several claims referred to, by such suggestions and advice as you may receive from him, and that you should conclude an arrangement with that Government, accordingly, for a compromise. Much reliance, however, is placed upon your continued efforts to procure as favorable an arrangement as practicable.

Mr Connell will be made acquainted with these instructions, that he may apprize you of his views in relation to the proposed compromise, or leave the matter entirely to your discretion, to make the best bargain you can.

Your despatch, No. 5, of the 31st December, the last which has reached this department, was received on the 13th of last month.

I am, sir, respectfully, your obedient servant,

M. VAN BUREN.

HENRY WHEATON,  
Charge d'Affaires of the United States  
at Copenhagen.

*Mr Van Buren to Mr Wheaton.*

Department of State, }  
Washington, May 11th, 1829. }

SIR: With the despatch which I addressed to you on the 5th of last month, I transmitted the copy of a letter from Mr John Connell to this department, dated the 26th March, a list of the parties who had authorized the President of the United States to compromise their claims upon the Danish Government, with that Government, and the copy of a letter from some of these parties to this department upon that subject; and I now transmit to you a copy of the memorial or letter of the Baltimore Insurance Company to the late President of the United States, dated 18th November, 1828, which will serve as a specimen of the autographs of those of all the other parties authorizing the adjustment.

It is proper now, also, for this department to acquaint you with the views of the President in regard to the form of an arrangement for effecting this object, which may be either by the means of a convention containing a stipulation for the appointment of a mixed commission, consisting of — members, composed of a citizen or citizens of the United States, and a subject or subjects of his Danish Majesty, with a provision for appointing another member, in the accustomed way,



in such cases, to hold its sessions in this city, and determine upon the validity and amount of the claims brought before it, on the part of citizens of the United States or subjects of Denmark, against the one or other Government, as the case may be. This, on every account, would be the best and fairest mode; but if an arrangement of this kind should be found unattainable, as it most probably will be, then by the substitution of one for the payment of a gross sum by the Danish Government to that of the United States, as a full and entire indemnity and satisfaction for all claims of citizens of the United States upon the Government of Denmark, which sum to be distributed and applied exclusively by this Government in discharge of all just claims of that description that may be exhibited.

You will find examples in the treaty of Ghent, the Florida convention, and the St Petersburg convention, as well as in that of London of the 13th November, 1826, awarding the amount of indemnification under the St Petersburg convention, which will serve as safe and convenient models by an easy adaptation of the terms of the convention, concluded upon the principles of either plan, to the circumstances of the present case.

With regard to the sum which the President is willing should be accepted from the Danish Government as a full and entire indemnification for the claims of our citizens, you are already acquainted with his views upon this point, and he relies with confi-

dence upon your knowledge of circumstances, your zeal and patriotism, for procuring, through the exercise of a sound discretion on your part, in behalf of the just and important interests involved, a satisfactory arrangement. He is the more anxious on this score, because it has been found impossible for me, from my recent assumption of the duties of this department, to make him acquainted with it in all its details, or to have become sufficiently so myself, to enable him to authorize or warrant my giving more precise instructions on the occasion.

The convention which may be concluded should contain a stipulation for the exchange of the ratifications of it within nine months, from its signature at Copenhagen, thereby making the previous ratification by the Government of Copenhagen indispensable.

With great respect, your obedient servant,

M. VAN BUREN.

HENRY WHEATON,  
Charge d'Affaires of the United States  
at Copenhagen.

*Mr Wheaton to the Secretary of State.*

Copenhagen, October 17, 1829.

SIR: Mr Connell arrived here on the 1st of July, with your despatches No's 5 and 6, and I immediately applied myself to execute the instructions therein contained.

With an anxious desire to accomplish the views of the Government as developed in your letters, I have since had various informal conferences with Count Schimmelmänn, besides several formal and official meetings with

the Danish commissioners, the result of which will appear by the copy of the protocol herewith enclosed.

I had delayed my reply to the declaration of the Danish commissioners of the 10th September, at the request of Count Schimmelmann himself, who intimated to me that they were about to present to the King a report of the then actual state of the negotiation, with a view to ascertain whether his Majesty could not be induced to authorize them to augment the sum which they had already offered as a compromise. On the 15th of the present month, Count Schimmelmann sent for me, and, with many professions of regret on his part, informed me that the King had determined *not* to authorize them to agree to any such augmentation, except so far as respected the expenses of the board of commissioners to distribute among the claimants the principal sum already offered us by way of compromise, which expenses the Danish Government were willing to pay.

I could have no hesitation in immediately rejecting this overture, and I accordingly informed Count Schimmelmann that I considered the negotiation as substantially terminated, so far as respected any rational hope of its being conducted to a successful result.

I shall, however, in the course of a few days, request another conference with the Danish commissioners for the purpose of replying, in form, to their declaration of the 10th of September.

I shall send this despatch, in

duplicate, via France and England, in the hope that it may reach you before the opening of the session of Congress, and shall anxiously await the further orders of the President upon this new posture of our affairs with this Government.

I have the honor to be, with high consideration and respect, sir, your very obedient, humble servant,

HENRY WHEATON.

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*Substance of the protocols of conferences between Mr Wheaton, Charge d'Affaires, and Commissioner on the part of the United States for the settlement of the claims of American citizens on Denmark, and Messrs Schimmelmann and Stemann, Commissioners on the part of his Danish Majesty, 27th August, 1829.*

The commissioners met pursuant to agreement, and exchanged their full powers.

The Danish commissioners declare, that it is sufficiently known by what fatality Denmark was drawn from its peaceful and upright policy into the war of the revolution. Everything was changed, when his Danish Majesty was compelled, by circumstances, to join in a struggle, during which all the bonds which united nations for the maintenance of the general good, were loosened; still, instead of giving way to the urgency of the times, he resolved to do everything in his power to uphold the rights of neutrals. The King had powerful motives not to restrain the rights of belligerents, while fleets covered his seas and divided the different

portions of his dominions. His situation was rendered more painful from the means employed in falsely assuming the neutral character, so as to make it difficult to discriminate between neutral and enemy's property. To obviate this difficulty, the King promulgated, in 1807 and 1810, ordinances requiring neutral vessels to be provided with the papers required by the public law; and immediately established courts of admiralty to decide in cases of contravention to these ordinances.

The King cannot agree that sentences pronounced by competent tribunals, agreeably to all legal forms, and to the law of nations, should be annulled, nor that this can be demanded. Besides, the motives upon which they are founded are set forth in the notes, which, by order of the Department of Foreign Affairs, have been delivered by Mr Reedtz to Mr Wheaton, for the purpose of putting him in possession of all the information and views we had on the subject. Although compelled to insist upon the considerations by which the King is prevented from consenting to the sentences not considered as final, we may still give the assurance that the King is still in the same disposition which has induced him to grant to American merchants, in his states a special protection, whenever the rights of his subjects present no obstacle to his doing so. Of this, he has given a new proof by bestowing particular attention upon Mr Wheaton's representations in behalf of American citizens who had been subjected to the payment of existing duties upon their

cargoes detained at Kiel, and by allowing them a considerable deduction. The King does not, however, wish to confine himself to the determinations already taken in favor of citizens of the United States. He is willing to make another sacrifice, if that can suffice to adjust the only difference now existing with a nation whose friendship he is anxious to retain, and to alleviate the losses to which its citizens may have been subjected by the omission of legal forms, and of proofs which might have served to establish their right of property, their neutral character, and the fact that the subjects of the enemy had no share in their mercantile operations. The King is, therefore, willing to allow the sum of half a million marcs banco of Hamburg, to be proportionally distributed by the Government of the United States, agreeably to measures to be adopted for that purpose, to such citizens as, owing to circumstances which they could neither foresee nor prevent, have suffered injuries and losses through sentences pronounced against them. The King further allows, for the same object, such sum as the Government of the United States will think it just and proper to allow, as an indemnity for the Danish ships, *Henry* and *Mer-cator*, carried to America.

This offer is made in the name of the King, upon the condition that all claims for captures by Danish cruisers will forever be foreclosed; and that, if not accepted, it is to be considered as null by the Government of the United States.



This declaration having been read, the United States' commissioner declares that he cannot but regret that the Danish commissioners are not empowered to treat concerning claims for indemnity in cases where, although no final condemnation has been pronounced, the claimants have suffered losses for which the United States consider Denmark as justly responsible.

As to claims in general, whether condemned or not, the Government of the United States would prefer a settlement by a *mixed commission*; but as this does not appear to suit the Danish Government, it will not be insisted on at present. The Government of the United States will accept a gross sum, in full satisfaction of all claims, to be distributed by commissioners appointed by them. But he cannot consider the proposed sum as adequate, even to give that incomplete satisfaction which the Government of the United States agrees to accept, in order to put an end to differences with a Government with which it wishes to preserve the most friendly relations.

The Government of the United States cannot admit that the question in dispute is at all changed, or in any way affected by the sentences of the Danish admiralty courts, which, although conclusive as to the property of the goods condemned, and the responsibility of the captors to their Government, cannot have the same force between the neutral and belligerent States.

But setting aside all legal con-

troversy, the American commissioner is authorized to declare that the United States will consent to accept three millions of marcs banco of Hamburg, in full satisfaction, on condition that Denmark will renounce all claims on account of the captures of the ships *Henrick* and *Mercator*; and that, if not accepted, the proposition is to be regarded as null.

The commissioners agree to adjourn the conference.

10th of September, 1829.

The Danish commissioners attribute the great disparity, which they regret to perceive between their proposition and that of the American commissioner, to the opposite views taken of the subject in dispute. To remove that difference, in the opinions of the commissioners, it is necessary to go back to the source from which it arises; and they therefore offer the following explanations.

It cannot be denied that, in the war in which Denmark was brought in conflict with a powerful enemy, she was entitled to all the rights of a belligerent. Among these, the erection of prize courts is one of the most incontestible, and yet the claimants would make the Danish Government responsible for the decisions they were bound to give agreeably to existing laws, and to the law of nations.

The citizens of the United States cannot support their claims upon the mere assertion that they have sustained losses, because their vessels have been condemned as lawful prizes. They must prove that the evidence which

was to establish the neutral character of the property, was produced by those to whom they had entrusted that property. The claims, therefore, under consideration, ought not to be a mere demand of indemnity for damages, but their object ought to be the recovery for a loss illegally sustained; which cannot be, without accusing the judges of having pronounced arbitrary sentences, and acted contrary to the dictates of their respective duties. Claims founded on such supposition, require the most scrupulous examination of the grounds on which it is made.

These considerations convince us that these claims cannot be considered as founded upon wrongs, unless the reasons necessary to support these wrongs be adduced in each case.

We can only add that if, notwithstanding these observations, the offer made in the name of the King is not taken into consideration, we have a right to wait for the refutation of the answers given to the arguments adduced by Mr Erving, in advocating the cause of the claimants who think themselves aggrieved. But it cannot be doubted, that a renewed investigation of the cases will create long and tedious discussions, whose end can scarcely be foreseen, and whose result would, probably, disappoint the expectations of the greater number of the claimants, and would not fulfil the intentions of the King, who has been desirous to devise a mode of reconciliation, by consenting to a sacrifice proportioned to the resources of his dominions, after a long and disastrous war.

After the reading of this declaration, the commissioners agreed to adjourn.

H. WHEATON.

E. G. SCHIMMELMANN.

STEMANN.

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*Extract from a despatch, of Mr Wheaton to the Secretary of State, dated*

Copenhagen, December 5, 1829.

‘ Since the date of my last despatch, Count Schimmelmann, the Minister of Foreign Affairs, has been constantly indisposed, so as to be incapable of attending to business.

On the 20th November, I requested a conference with the Danish commissioners, for the purpose of replying to their declaration of the 10th September. My counter declaration, in writing, had been prepared for some time, but I had been induced to delay presenting it in consequence of Count Schimmelmann’s indisposition. On the 24th November the Minister of Justice, Mr Stemann, consented to meet me alone for the purpose of receiving this paper, a copy of which is herewith enclosed.

In the little conversation which took place at this meeting, nothing fell from the minister to change the views presented in my last despatch as to the intentions of this Government, or to induce a hope that they will be persuaded, at present, to listen to our just demands.

After I had handed him my counter declaration, Mr Stemann read a short paper, which he proposed to insert on the protocol, insisting anew on the old objec-

tion of the conclusiveness of the sentences of their courts of prize, which we had been induced to suppose was entirely waived. But I flatter myself that the views which I have taken of this question in the paper, a copy of which is enclosed, will induce them once more to abandon this ground. Until they have determined this point, the protocol of the last conference cannot be definitively settled. As soon as it is drawn up and signed, I shall have the honor of transmitting you a copy in due form.'

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*Mr Wheaton to the Secretary of State.*

Copenhagen, Jan. 9, 1830.

SIR: I have now the honor to enclose the protocol of my last conference with the Danish commissioners. The preliminary reply to my counter declaration, which they have, at last, concluded to insert on the protocol, is materially different from that read by Mr Stemmann at our meeting, and may be considered as amounting, almost, to a waiver of the ground assumed by them as to the conclusiveness of the sentences of condemnation. Indeed they have let me see very plainly that they have no faith in it themselves. At the same time, I regret that my duty compels me to say that there is no present prospect of any practical beneficial result of the negotiation.

I have the honor to be, with the highest consideration and respect, your obedient, humble servant,

HENRY WHEATON.

The commissioner of the United States, in replying to the declaration of the Danish commissioners at the last conference, deems it necessary to recur to the origin of the present controversy between the two Governments, and to recapitulate the efforts which have been made by the United States' Government to effect its amicable adjustment upon terms consistent with the honor and interests of both nations.

More than twenty years have elapsed since the depredations upon their commerce were commenced, of which the United States now complain. While carrying on their accustomed and lawful trade with the Baltic sea, in the years 1809, 1810, and 1811, their navigation was suddenly interrupted by the commissioned cruisers of a power, with which they have always cultivated the most friendly relations, and from which any such interruption was the less to have been expected, because it had always professed, and, until that period, had shown the greatest respect for the rights of neutral commerce.

The capture of American vessels and cargoes were followed by long and vexatious delays in proceeding to adjudication in the Danish courts of admiralty; by various acts of misconduct on the part of the captors in endeavoring to pervert the due course of justice; by sentences of condemnation unjust in themselves, and founded upon a misapplication of the rules of prize law, recognised by all civilized nations, and not even warranted by the true inter-



pretation of the ordinances upon which they profess to proceed. Even in those cases where confiscation was not finally pronounced, and where the delay proceeded from the obstinacy and cupidity of the captors in appealing from the sentences of restitution, the claimants were mulcted in heavy costs and damages under the name of *fines*, upon the most frivolous and groundless prettexts, while damages were seldom or never awarded against the captors for their unjust and oppressive conduct.

The justice of these complaints, to a considerable extent, has not been, and cannot be denied, on the part of his Danish Majesty's Government; and if they were not completely redressed at the time when remonstrances were first presented against them, it was attributed by his Majesty's then Minister of Foreign Affairs, not to the want of foundation for the complaints themselves, but to the unfortunate situation in which Denmark found herself placed by the political circumstances of that disastrous epoch.

In an official note from Mr de Rosenkrantz, his Majesty's late Minister of Foreign Affairs, to Mr Erving, dated May 8th, 1812, it was stated, that if his Majesty could be satisfied that, in the examination of particular cases, appearances had prevailed to the injury of American citizens who might not have been able to demonstrate the lawfulness of their commercial enterprises, he would assuredly be led to redress just complaints; but, in the midst of

a contest so severe as that in which Denmark was then engaged with a government which openly disregarded the rights of maritime nations, the moment was not favorable to take into consideration claims so inseparably connected with a course of measures indicated by painful necessity and by the duty of self-defence.

The above note, also, contained the following passage: 'Il ne peut point être douteux au soussigné, que, dès que la paix maritime aura rendue à tous les gouvernemens le calme, et aura s'ouverte aux nations navigatrices les sources de leur prospérités, le Gouvernement Danois sera très disposé à prendre en juste considération les réclamations que le Gouvernement des Etats Unis pourra trouver convenable de faire à cette époque là, à l'égard des objets encore en litige.'

The circumstances upon which a satisfactory indemnity was withheld in 1812, no longer exist. A long period of peace has intervened which has calmed the passions excited by war, and reopened the sources of commercial prosperity to all nations. During this period, the Government of the United States has never abandoned the hope of terminating with the Danish Government, in an amicable manner, the only subject of controversy which could possibly disturb the harmony subsisting between the two countries.

Mr Forbes, the immediate successor of Mr Erving, was instructed by his Government to recall the attention of his Majesty's Government to a subject in which the

important interests of so many American citizens were involved. But the efforts of Mr Forbes during his long residence of more than seven years at this court, were wholly fruitless in obtaining even an examination of the claims. Mr Rosenkrantz redeemed his official pledge to take into just consideration these demands, at a more convenient season, by reiterating the same plea, which his excellency had before urged to Mr Erving, that the decisions of his Majesty's own tribunals precluded him from redressing the wrongs committed by the cruisers acting under his authority.

In 1818, Mr Campbell appointed minister of the United States at the court of St Petersburg, on his way to that capital, stopped at this residence, and, in an interview with Mr De Rosenkrantz, stated that, though he was not instructed to renew the discussion of the claims at that time, he was directed to say that the American Government entertained the strongest conviction of their justice, had not abandoned, and could not think it their duty to abandon them.

In 1825, Mr Hughes, on his way from Stockholm to the Netherlands, where he had recently been appointed *Chargé d' Affaires* of the United States, was instructed to call here, and repeat the demand for a satisfactory adjustment of the claims. This demand was met by the Minister of Foreign Affairs, Count Schimmelmänn, with the same objection which had been insisted on by his excellency's predecessor, Mr de Rosenkrantz.

Lastly, at the moment of the signature of the commercial convention between the two countries, in 1826, Mr Secretary Clay addressed a note to Mr Pedersen, his Majesty's minister, resident at Washington, explicitly declaring that the omission to provide for the indemnities due on account of these claims, in the treaty, was not hereafter to be interpreted as a waiver or abandonment of them by the United States' Government, which, on the contrary, was firmly resolved to persevere in the pursuit of them until they should be finally arranged upon principles of equity and justice.

Notwithstanding Mr Pedersen was not charged by his own Government, in that negotiation, to treat of the claims now in question, yet the American Government did not hesitate to conclude a convention which marks its liberal spirit towards the Danish Government, and from which the colonies and commerce of Denmark have derived great advantages, and which expressly recognises, for the first time, on the part of the United States, her right to the duties collected on the passage of the Sound and the Belts.

The negotiation which has now been commenced, affords, in the opinion of the American commissioner, additional proofs of the friendly disposition of the Government of the United States towards that of Denmark, and of its desire not to press its pretensions against the latter beyond reasonable and moderate bounds. It is willing to make a great sacrifice

of the interests of its citizens, who have so long been deprived of the use of their commercial capitals, by what the American Government is bound to consider the unjust conduct of the Danish cruisers, and the unjust decision of the Danish tribunals. Under these circumstances, the American commissioner regrets the necessity of entering into discussions which have been invited by the commissioners of his Majesty, but which, he apprehends, may not lead to any useful practical result.

The principal ground upon which the representations of the United States' Government, in favor of their injured citizens, has been hitherto repelled by the Danish Government, and which it is necessary first to examine, because it goes to preclude, *in limine*, all inquiry and all redress, is stated by his excellency, Count Schimmelmann, in an official letter to Mr Hughes, dated the 17th of August, 1825, in the following terms:

‘That the sentences by which vessels, bearing the flag of the United States, have been released or condemned by the prize tribunals, or high court of admiralty, are without appeal, and cannot, without derogating from that which has been established from the remotest times in the Danish Monarchy, be altered or annulled; no more than (might be) sentences pronounced by the courts of justice, and by the tribunals in civil and criminal causes; and the King, during his reign has followed, in every case, this invariable rule, and has not exer-

cised his supreme power, excepting to mitigate penalties prescribed by sentences, conformably to the laws, or to pardon.’

The commissioner of the United States apprehends that the above remarks proceed upon an erroneous conception, both of the nature of prize jurisdiction as established and exercised under the law of nations, and of the demand which has been made by the Government of the United States in respect to the judicial proceedings now in question.

It may be a law of the Danish monarchy that the sentences in the last resort of the ordinary civil and criminal tribunals, constituted under the municipal code of the country, and exercising jurisdiction over its own subjects, are not re-examinable by the supreme power of the state; but it does not therefore follow that the sentences of the prize tribunals are to have a similar conclusive effect upon foreign States and their citizens. Nor is such an effect to be attributed to those sentences, merely because, in the arrangement of the courts of justice in Denmark, the appellate jurisdiction in matters of prize invested in the same high tribunal, which is also the court of the last resort in cases arising under the municipal law of the land. Even in the case of the sentences of the ordinary municipal tribunals of a country, although the general presumption is that they are correct, (a presumption which ought not lightly to be disregarded,) it does not always prevent a foreigner from invoking the aid of his own Government to obtain redress



from the Government of the tribunal in which an erroneous judgment is supposed to have been pronounced. The writers on the law of nations, in treating on the subject of reprisals, expressly make the unjust judgments of the tribunals of the offending nation, a ground of resort to that forcible proceeding. Thus *Grotius* states, that a 'judicial sentence, plainly against right, to the prejudice of a foreigner, entitles his sovereign to obtain reparation by reprisals: "*Nam auctoritas judicantis non idem in exteris quod in subditos valet.*" For the authority of the judge is not of the same force against foreigners as against subjects. Here is the difference: Subjects are bound by the sentence of the judge, though it be unjust, so as that they cannot lawfully oppose the execution of it, nor by force recover their own right, on account of the authority of the dominion under which they live. But foreigners have coercive powers, (i. e. of reprisals,) though it is not lawful to use it, so long as they can obtain their right in the ordinary course of justice.' (*De Jur. B. ac. P. lib. 3, cap. 2., sec. 5.*) So, also, *Bynkershoek*, in treating of the same subject, puts an unjust judgment upon the same footing with naked violence, as equally authorizing reprisals on the part of the State whose subject had been thus injured by the tribunals of another State. (*Quæst. Jur. Pub., lib. 1., cap. 24.*) And *Vattel* (*liv. 2, ch. 18, s. 350,*) in enumerating the different modes in which justice may be refused, so as to authorize re-

prisals, mentions 'a judgment manifestly unjust and partial.' And though he states (what nobody denies,) that the judgments of the ordinary tribunals ought not to be called in question upon frivolous or doubtful grounds; yet he is manifestly far from attributing to them that sanctity which would absolutely preclude foreigners from seeking redress against them.

These principles are sanctioned by the authority of numerous treaties between the different powers of Europe, regulating the subject of reprisals, and declaring that they shall not be granted unless in case of the *denial of justice*.

An unjust sentence must certainly be considered a 'denial of justice,' unless the mere privilege of being heard before condemnation is all that is included in the idea of justice.

But even supposing that the unjust judgments of the municipal tribunals do not form a ground of reprisals, there is evidently a wide distinction in this respect, between the ordinary tribunals of the country proceeding under the municipal law, as their rule of decision, and the same, or another tribunal, sitting in the belligerent state, and professing to administer the law of nations to foreigners as well as subjects. The ordinary municipal tribunals acquire jurisdiction over the person or property of a foreigner by his consent, either *expressed* by his voluntarily instituting the suit, or *implied* by the fact of his bringing his person or property within the territory of the country. But

when courts of prize exercise their jurisdiction over vessels and cargoes captured at sea, the property of foreigners is brought by force within the territory of the state by which those tribunals are constituted. By the natural law of nations, the tribunals of the captor's country are no more the rightful, exclusive judges of captures in war, made on the high seas, from under the neutral flag, than are the tribunals of the neutral country. The equality of nations would, on principle, seem to forbid the exercise of a jurisdiction thus acquired by force and violence, and administered by tribunals which cannot be impartial between the litigating parties, because created by the sovereign of one to judge the other.

Such, however, is the constitution of the tribunals, in which, by the positive and customary law of nations, is vested the exclusive jurisdiction of prizes taken in war. But this imperfection of the voluntary law of nations, in its present state, cannot oppose an effectual bar to the claim of a neutral government seeking indemnity for its citizens, who have been unjustly deprived of their property under the erroneous administration of that law. The institution of these tribunals, so far from exempting or being intended to exempt the sovereign of the belligerent nation from responsibility, is designed to fix and ascertain that responsibility. Those cruisers are responsible only to the sovereign whose commission they bear. So long as seizures are regularly made, upon apparent grounds of

just suspicion, and followed by prompt adjudication in the usual mode, and until the acts of the captors are confirmed by the sovereign in the sentences of the tribunals appointed by him to adjudicate in matters of prize, the neutral has no ground of complaint, and what he suffers is the inevitable consequence of the belligerent right of capture. But the moment the decision of the tribunal of the last resort has been pronounced against the claimant, (supposing it not to be warranted by the facts of the case, and the law of nations as applied to those facts,) and justice has thus been finally denied; the capture and the condemnation become the acts of the state, for which the sovereign is responsible to the Government of the claimant.

There is nothing more irregular in the supposition that the sovereign is responsible towards foreign states for the acts of his tribunals, than that he is responsible for his own acts, which, in the intercourse of nations, are constantly made the grounds of complaint of reprisals, and even of war. No greater sanctity can be imputed to the proceedings of prize tribunals, even by the most extravagant theory of the conclusiveness of their sentences, than is justly attributed to the acts of the sovereign himself. But those acts, however binding upon his own subjects, if they are not conformable to the public law of the world, cannot be considered as binding upon the subjects of other states. A wrong done to them, forms an equally just subject of complaint on the part of their government,

whether it proceed from the direct agency of the sovereign himself, or is inflicted by the instrumentality of his tribunals.

The tribunals of any country are but a part, and a subordinate part, of the Government of that country. But the right of redress against injurious acts of the whole Government — of the supreme authority — incontestably exists in foreign States, whose citizens have suffered by these acts. Much more clearly, then, must it exist when those acts proceed from persons, authorities, or tribunals, responsible to their own sovereign, but irresponsible to a foreign government, otherwise than by its action on their sovereign.

These principles, so reasonable in themselves, are also supported by the authority of the writers on public law, and by historical examples.

The exclusive right of the State, to which the captors belong, to adjudicate upon the seizures made by them, (says Rutherford,) is founded upon another, i. e. 'its right to inspect into the conduct of the captors, both because they are members of it, and because it is responsible to all other States for what they do in war, since what they do in war is done either under its general, or under its special commission. The captors, therefore, are obliged, on account of the jurisdiction which the State has over their persons, to bring such ships or goods as they seize in the main ocean into their own ports; and they cannot acquire property in them until the State has determined whether

they were lawfully taken or not. This right, which their own State has to determine this matter, is so far an exclusive one that no other State can claim to judge of their behavior, till it has been thoroughly examined into by their own; both because no other State has jurisdiction over their persons, and, likewise, because no other State is answerable for what they do. But the State to which the captors belong, while it is thus examining into the behavior of its own members, and deciding whether the ship or goods, which they have seized upon, are lawfully taken or not, is determining a controversy between its own members and the foreigners who claim the ships or the goods; and this controversy did not arise within its own territory, but in the main ocean. The right, therefore, which it exercises, is not civil jurisdiction; and the civil law, which is peculiar to its own territory, is not the law by which it ought to proceed. Neither the place where the controversy arose, nor the parties who are concerned in it, are subject to this law. The only law, by which this controversy can be determined, is the law of nature applied to the collective bodies of civil societies, that is, the law of nations, unless, indeed, there have been any particular treaties made between the two States, to which the captors and the other claimants belong.'

'This right of the State to which the captors belong, to judge exclusively, is not a complete jurisdiction. The captors who are its own members, are bound to submit to its sentence, though this



sentence should happen to be erroneous; because it has a complete jurisdiction over their persons. But the other parties in the controversy, as they are members of another State, are only bound to submit to its sentence, so far as this sentence is agreeable to the law of nations, or to particular treaties; because it has no jurisdiction over them, in respect either of their persons, or of the things that are the subject of the controversy.

‘If justice, therefore, is not done them, they may apply to their own State for a remedy, which may, consistently with the law of nations, give them a remedy either by solemn war or by reprisals.’

In the celebrated report made to the British Government in 1753, upon the case of the reprisals granted by his Majesty the King of Prussia, on account of captures made by cruisers of Great Britain, of the property of his subjects, the exclusive jurisdiction of the tribunals of the captor’s country over captures made in war by its commissioned cruisers, is asserted; and it is laid down that ‘the law of nations, founded upon justice, equity, convenience, and the reason of the thing, does not allow of reprisals, *except in case of violent injuries directed or supported by the State, and justice absolutely denied in *reminime dubia*, by all the tribunals, and afterwards by the prince.*’ Plainly showing, that in the opinion of the eminent persons by whom that paper was drawn up, if justice be desired, in a clear case, by all the tribu-

nals, and afterwards by the prince, it forms a lawful ground of reprisals against the nation by whose tribunals the injury is committed. And that *Vattel* was of the same opinion, is evident from the manner in which he quotes this paper, to support his own doctrine; that the sentences of the tribunals ought not to be made the ground of complaint by the State, against whose subjects they are pronounced, ‘excepting in the case of a refusal of justice, palpable and evident injustice, a manifest violation of rules and forms,’ &c. (*Droit des Gens*, liv. 2, ch. 7, § 85.)

In the instance to which the commissioner of the United States has now referred, the King of Prussia (then neutral,) had undertaken to set up, in his own dominions, a commission to re-examine the sentences pronounced against his subjects in the British prize courts, which is treated by the authors of the report to his Britannic Majesty, as an innovation which never was attempted in any country of the world before. ‘Prize or not prize must be determined by courts of admiralty, belonging to the power whose subjects made the capture.’ But the report proceeds to state, that ‘every foreign prince, in amity, has a right to demand that justice shall be done to his subjects in these courts, according to the law of nations, or particular treaties, where any are subsisting. If, *in reminime dubia*, these courts proceed upon foundations directly opposite to the law of nations, or subsisting treaties, *the neutral State has a*

right to complain of such determination.'

The King of Prussia did complain of the determinations of the British tribunals, and made reprisals, by stopping the interests upon a loan due to British subjects, and secured by hypothecation upon the revenues of Silesia, until he actually obtained from the British Government an indemnity for the Prussian vessels unjustly captured and condemned.

The proceedings of the tribunals, though they were asserted by the British Government to be the only legitimate mode of determining the validity of captures made in war, were not considered as excluding the demand of his Prussian Majesty for redress upon the Government itself.

Nor are there wanting examples, in more recent times, of similar arrangements between nations. The United States themselves have repeatedly received from the principal belligerent powers indemnities for the property of their citizens, captured by the cruisers of those powers, and condemned in their courts of prize during the late maritime wars.

Under the treaty of 1794 between the United States and Great Britain, a board of commissioners was constituted to determine the claims thus arising 'according to the merits of the several cases, and to justice, equity, and the law of nations.' In the course of the proceedings of this board, objections were made, on the part of the British Government, against the commissioners proceeding to hear and

determine any case where the sentence of condemnation had been affirmed by the lords of appeal in prize causes, upon the ground that full and entire credit was to be given to their final sentence, in as much as, according to the general law of nations, it was to be presumed that justice had been administered by this the competent and supreme tribunal in matters of prize. But this objection was overruled by the board, upon grounds which appear to be conclusive and unanswerable; and a full and satisfactory indemnity was awarded in many such cases, which was promptly paid by the British Government.

So, also, by the treaty of 1795 between the United States and Spain, it was stipulated that the claims of their citizens for losses sustained by Spanish captures should be referred to a mixed commission, which was 'impartially to examine and decide the claims in question, according to the merits of the several cases, and to equity, justice, and the law of nations.' Here, too, the sentences of the Spanish admiralty tribunals were not considered as presenting any obstacle to the decision of the claims according to their several merits, and to justice, equity, and the law of nations. And, by the treaty of 1818 with Spain, provision was again made for indemnifying the citizens of the United States for unlawful seizures by Spanish cruisers, the claims for which were to be determined by commissioners appointed by the Government of the United States. In the course of the proceedings of this board, it was never so

much as doubted whether it had authority to inquire into cases where the capture had been affirmed by the final decision of the competent tribunal of Spain.

But it would be superfluous to enlarge this enumeration of the various arrangements between States, (to some of which Denmark herself has been a party,) by which mixed commissions have been appointed to hear and determine the claims of the subjects of neutral powers arising out of captures in war, not for the purpose of revising the sentences of the competent courts of prize as between captors and captured, but for the purpose of providing a full and adequate indemnity as between State and State, in cases where satisfactory compensation had not been received in the ordinary course of justice.

Although the theory of the law of nations supposes the prize tribunals established by, and sitting in the belligerent country, to decide exactly as if they were established by and sitting in the neutral country, (i. e. conformably to the public law common to both countries,) yet we all know that, in practice, such tribunals do take for their guide the prize ordinances and instructions issued by the belligerent sovereign, without stopping to inquire whether they are consistent with the paramount rule. If, therefore, the sentences of the tribunals now in question were to be considered as so absolutely conclusive as to preclude all inquiry into their merits, the obvious consequence would be to invest the belligerent State with legislative power over

the rights of neutrals, and to prevent them from showing that the instructions or ordinances under which these sentences have been pronounced, are repugnant to that law by which alone foreigners are bound. This consideration applies with striking force to the sentences of condemnation in the convoy cases. The merchant vessels of the United States, which had navigated under British convoy, were liable to condemnation only in virtue of the article D, clause 11th of the royal instructions of March, 1810, declaring 'good and lawful prize such ships, which, notwithstanding their flag is considered as neutral, as well with regard to Great Britain as the powers at war with the same nation, still, either in the Atlantic or Baltic, have made use of English convoy.' These instructions were promulgated by his Majesty, and constituted the authority of his cruisers to capture, and of his tribunals to condemn, American vessels in the specified cases. Supposing these instructions to be contrary to the law of nations, (as the United States insist,) the injured claimant has an incontestable right to redress in some mode. Against the captors he can have no remedy, for they are protected both by the royal instructions and the sentence of condemnation. When he objects to the condemnation before the Danish tribunal itself, he is told that it is the inevitable consequence of his Majesty's instructions which form the law of the tribunal, operating upon the fact in proof of his having been under the protection of British



convoy. If he applies, through his own Government, to the Sovereign himself, he is informed by his Majesty's minister, that, by the immemorial law and usage of the Danish Monarchy, the final sentences of its highest tribunals are irreversible, and cannot be revised or annulled by the supreme power of the State.

Such are the consequences which inevitably flow from such a misapplication of the doctrine of the conclusiveness of admiralty sentences.

The American commissioner is firmly convinced that Denmark is the last power, and the enlightened ministers to whom this paper is addressed, the last statesmen, that would yield to a principle so unjust and fatal in its effect.

That the jurisdiction of the tribunals of the capturing nation is exclusive and complete upon the question of prize or no prize, so as to transfer the property in the ship, or goods condemned, from the original owner to the captors, or those claiming under them; that the final sentence of those tribunals is conclusive as to the change of property operated by it, and cannot be again incidentally drawn in question in any other judicial forum, and that it has the effect of closing forever all private controversy respecting the capture between the captors and captured, are principles of public law, undeniable in themselves, and which the convenience of commerce and the peace of the civilized world render it necessary to uphold and maintain. But it seems to have been supposed by the Danish Government, that

the demand which the United States have made upon it, was for a judicial revision and reversal of the sentences of condemnation which had been pronounced in its tribunals (as the United States believed) in derogation of the public law. The demand which their ministers at this court were instructed to make, and which they did make, was for the indemnity to which the citizens of the United States were entitled in consequence of the denial of justice by the tribunals in the last resort, and of the responsibility thus incurred by the Danish Government for the acts of its tribunals.

The Danish Government was, and is, of course, free to adopt any measures it may think proper to satisfy itself of the injustice of those decisions, one of the most natural of which would be a re-examination and discussion of the cases complained of, conducted by an impartial tribunal, in a respectful and friendly spirit, under the sanction of the two Governments, not for the purpose of disturbing the question of title to the specific property which has been irrevocably condemned, or of reviving the controversy between the individual captors and claimants which has been forever terminated, but for the purpose of ascertaining, between Government and Government, whether injustice has been done by the tribunals of one power against the citizens of the other, and of determining what indemnity ought to be granted to the latter.

Having thus endeavored to remove the preliminary objection

which has been hitherto made by the Danish Government to the claims in question, the commissioner of the United States will proceed to examine the allegations on which the seizure and confiscation of the vessels and cargoes sailing under the American flag, were made and have been attempted to be justified.

These are principally the following:

1st. The possession of false and simulated papers, by which it was pretended an American character was stamped on British property.

2d. Sailing under British convoy, by which it is pretended the merchant vessels of the United States lost the immunities of their flag, and subjected themselves to be treated as enemy's property. And

3d. The possession of French consular certificates of origin, after the French consuls in the United States were forbidden to issue them, except to vessels sailing direct to the ports of France.

1. In respect to the first of those classes of claims, where the seizure and confiscation of American vessels and cargoes have been grounded upon the supposed defects or falsity of the proof of proprietary interests, the commissioner of the United States deems it sufficient to observe, that the American Government, far from affording any favor or protection to the fraudulent assumption of its flag, during the late maritime war in Europe, would have been the first to denounce and punish them. In that disastrous conflict, the belligerent powers had no

reason to complain of the want of impartiality and fairness in the conduct of the United States. On the contrary, the destructive war, waged on their lawful commerce by all the belligerent nations, compelled them, in the first instance, to withdraw their navigation from the ocean, and afterwards to resort to hostilities against one of the belligerents. From others, they have received adequate indemnity, and they are determined to pursue their claims upon all until they are arranged in a satisfactory manner. For the injuries committed by the Danish cruisers upon the commerce of the United States, the American Government is now willing to accept an indemnity far short of the actual loss sustained by their citizens, and proportioned to what are believed to be the actual resources of Denmark. But the American commissioner is convinced that, until an offer of compensation is made on the part of the Danish Government, more nearly approaching to what may be considered as adequate to constitute even that imperfect satisfaction which the United States are willing to accept, provided an arrangement can be now made of the subject in controversy, he may well be excused from entering into a minute and detailed examination of all the special facts and circumstances of the numerous cases in which redress is demanded by his Government. He will content himself, for the present, with referring to the arguments contained in the correspondence of Mr Erving upon various cases depending, not upon

any general principles, but on the special circumstances of each particular case. These arguments have not been, and, in the opinion of the American commissioner, cannot be satisfactorily refuted. He will, therefore, proceed to the consideration of the grounds upon which the seizure and condemnation of property, confessedly belonging to citizens of the United States, has been attempted to be justified by the Danish Government.

2. This involves the examination of those cases included in a list, (No, 1) enclosed in Mr Erving's note to Mr de Rosenkrantz, of the 6th of June, 1811, and which were condemned under the royal ordinance of March 28th, 1810, clause 11th, article D, which declared to be 'good and lawful prize such vessels as, notwithstanding their flag is considered neutral as well with regard to Great Britain as the powers at war with the same nation, still, either in the Atlantic or Baltic, have made use of English convoy.' The vessels and cargoes included in the above list were condemned by the high court of admiralty, notwithstanding satisfactory proof that most, if not all of them, had been compelled to join the British convoy, and although the promulgation of the ordinance in question was unknown at St Petersburg when they sailed from that port.

Whoever considers the geographical position of the Baltic sea, and its outlets into the ocean, the winds and currents by which the navigation of these waters is affected, will readily perceive how

difficult it must have been for neutral vessels passing, during the late war, through their narrow and sinuous channels, to avoid becoming entangled in the numerous convoys of the enemy of Denmark, even supposing there was no disposition on the one side to receive, and on the other to impart, protection against the multiplied perils of those calamitous times. Where the neutral was accidentally involved in the convoy, or where its protection was obtruded upon him by the enemy, the injustice of confiscating his property for the alleged offence, is indeed most strikingly apparent, and it seems difficult even to palliate such a measure without converting misfortune into a crime, and adopting the principle that inevitable accident, or the illegal application of superior force by one belligerent to the property of a neutral, creates a right in another belligerent to seize that property as prize of war.

But it is the less material to dwell upon these distinguishing circumstances, because the principle upon which the clause of the ordinance now in question was issued by the Danish Government, is wholly denied by the Government of the United States.

The American commissioner supposes that it would be superfluous for him to adduce any arguments to show that the prize ordinances of Denmark, or of any other particular State, cannot make or alter the law of nations, nor introduce a new rule of public law binding on neutrals. The right of his Majesty to legislate for his own subjects



and his own tribunals, is incontestable ; but, before his edicts can operate upon foreigners carrying on their commerce upon the seas, which are the common property of all nations, it must be shown that they are conformable to the paramount law by which all are bound. It is however, unnecessary to suppose that, in issuing these instructions, his Majesty intended to do anything more than merely to lay down rules of decision for his own tribunals conformably to what the Danish Government understood to be just principles of common law. But the observation becomes important when it is considered that the law of nations no where exists in a written code, accessible to all, and to whose authority all refer ; and that the present question regards the application of a principle (to say the least) of *doubtful* authority, to the confiscation of neutral property for a supposed offence, committed, not by the owner, but by his agent, without the knowledge or orders of the owners, under a belligerent edict, retrospective in its operation, because unknown to those whom it was to affect.

The principle laid down in the ordinance, as interpreted by his Majesty's tribunals, is, that the fact of having navigated under enemy's convoy, is, *per se* a justifiable cause (not of capture merely, but) of condemnation in the tribunals of the opposite belligerent, and *that* without inquiring into the proofs of proprietary interest, or the circumstances and motives under which the

captured vessel had joined the convoy, or into the legality of the voyage, or the innocence of her conduct in other respects.

A belligerent pretension, so harsh, apparently so new, and so important in its consequences, before it can be assented to by neutral States, must be rigorously demonstrated by the authority of the writers on public law, or shown to be countenanced by the usage of nations. Not one of the numerous expounders of that law even mentions it ; no belligerent nation has ever before acted upon it, and still less can it be asserted that any neutral nation has ever acquiesced in it. Great Britain, indeed, has contended that a neutral State has no right to resist the exercise of the belligerent claim of visitation and search by means of convoys *consisting of its own ships of war*. But Denmark has constantly opposed that pretension, and therefore it is unnecessary to reason with her to prove its illegality. But the records, even of the British courts of admiralty may be searched in vain for a precedent to support the principle now maintained by Denmark, that the fact of having sailed under belligerent convoys, is, in all cases, and under all circumstances, conclusive cause of condemnation.

The American vessels now in question, were engaged in their accustomed and lawful trade between Russia and the United States ; they were unarmed, and made no resistance to the Danish cruisers ; they were captured on the return voyage, after having passed up the Baltic, and been

subjected to an examination by the Danish cruisers and authorities, by which their neutrality was established ; and were condemned under an edict which was unknown, and consequently, as to them, did not exist, when they sailed from Cronstadt, and which, unless it can be strictly shown to be consistent with the pre-existing law of nations, must be considered as an unauthorized measure of retrospective legislation.

To visit upon neutral merchants and mariners the extremely penal consequences of an act which they had reason to believe to be innocent at the time, and which it is not pretended was forbidden by a single treaty, or writer upon public law, by the general usage of nations, or even by the practice of any one belligerent, or the acquiescence of any one neutral state, must require something more than a mere resort to the supposed analogy of their principles of the law of nations well established, but from which it would be in vain to attempt to deduce that now in question as a corollary.

Being found in company with an enemy's convoy, may indeed furnish a *presumption* that the captured vessel and cargo belong to the enemy, in the same manner as goods taken in an enemy's vessel are presumed to be enemy's property, until the contrary is proved. But this presumption is not of that class of presumptions which the lawyers call *presumptiones juris et de jure*, which are held to be conclusive upon the party against whom they are raised, and which he is not at liberty to contradict. It is a

slight presumption only, which will readily yield to countervailing proof. One of the proofs which, (in the opinion of the commissioner of the United States,) ought to have been admitted by the tribunal for the purpose of countervailing this presumption, would have been evidence that the vessel had been compelled to join the convoy, or that she had joined it not to protect herself from examination by Danish cruisers, but against others whose notorious conduct and avowed principles rendered it certain that captures by them would be followed by inevitable condemnation. It follows, then, that the simple fact of having navigated under British convoy, could be considered as a ground of suspicion only, warranting the captors in sending in the captured vessel for further examination, but not constituting, in itself, a conclusive cause of confiscation.

Indeed it is not perceived how it could be so considered, (upon the mere ground of its interfering with the exercise of the belligerent pretension of visitation and search,) by a State, which, when neutral, had asserted the right of protecting its private commerce against belligerent visitation and search, by armed convoys of its own public ships.

Nor can the consistency of the Danish Government in this respect be vindicated by assuming a distinction between the doctrine maintained by Denmark, when neutral against Great Britain, from that which she now seeks, as a belligerent, to enforce against America.

Why is it that navigating under the convoy of a *neutral* ship of war, is, according to the British doctrine, a conclusive cause of condemnation? It is because it tends to impede and defeat the belligerent right of search — to render every attempt to exercise this lawful right a contest of violence — to disturb the peace of the world, and to withdraw from the proper forum the determination of such controversies, by forcibly preventing, *in limine*, the exercise of its jurisdiction. But the mere circumstance of sailing in company with a belligerent convoy, has no such effect. Being an *enemy*, the belligerent has a *right to resist*. The masters of the vessels under his convoy cannot be involved in the legal consequences of that resistance, because they are neutral, and have not actually participated in the resistance. They can no more be involved in the consequences of a resistance by the belligerent, which is his own lawful act, than is the neutral shipper of goods on board a belligerent vessel for the resistance of the master of that vessel; or the owner of neutral goods, found in a belligerent fortress, for the consequences of its resistance.

The right of capture in war extends only to things actually belonging to the enemy, or such as are considered as constructively belonging to him, because, taken in a trade prohibited by the laws of war, such as contraband, property captured in breach of blockade, and other analagous cases. But the property now in question was neither constructively nor actually the property of the ene-

my of Denmark. It is not pretended that it was actually his property, and it cannot be shown to be constructively his. If indeed these American vessels had been armed; if they had thus contributed to augment the force of the belligerent convoy; or if they had actually participated in battle with the Danish cruisers, they would justly have fallen by the fate of war, and the voice of the American Government would never have been raised in their favor. But they were in fact unarmed merchantmen, and, far from increasing the force of the British convoying squadron, their junction tended to weaken it, by expanding the sphere of its protecting duty; and, instead of participating in the enemy's resistance, the fact is, there was no battle and no resistance, and the merchantmen fell a defenceless prey to the force of the assailants.

The illegality of the act on the part of the neutral masters, for which the property of their owners has been confiscated, (if it be illegal,) must then be sought for in a higher source, and must be referred back to the circumstance of their *joining the convoy*. But why should this circumstance be considered illegal any more than a neutral taking shelter in a belligerent port, or under the guns of a belligerent fortress, which is subsequently invaded and taken? The neutral cannot indeed seek to escape from visitation and search by unlawful means, either of force or of fraud. But if, by the use of any lawful and innocent means, he may escape, what is to hinder his resorting to such means for the purpose of avoid-



ing so vexatious a procedure? The belligerent cruisers and prize courts have not always been so moderate and just as to render it desirable for neutrals voluntarily to seek for an opportunity of being examined and judged by them. And if, in fact, in respect to the trade of the Baltic sea, the conduct of one of the great belligerent powers was more favorable to neutral commerce than that of the other, what should prevent the neutral from availing himself of this circumstance, so far as he might without infringing any just right of the latter? Upon the supposition that justice was administered promptly, impartially, and purely, in the prize tribunals of Denmark, the American ship masters could have had no motive to wish to avoid an examination by Danish cruisers, since their proofs of property were clear, their voyages lawful, and they were not conscious of being exposed to the slightest hazard of condemnation in these tribunals. Indeed some of these vessels had been examined on their voyage up the Baltic, and acquitted by his Majesty's tribunals. Why then should a guilty motive be imputed to them, when their conduct can be more naturally explained by an innocent one? Surely, in the multiplied ravages to which the American commerce was then exposed on every sea, from the sweeping decrees of confiscation fulminated by the great belligerent powers, the conduct of these parties may be sufficiently accounted for without resorting to the supposition that they meant to resist, or even to

evade, the exercise of the belligerent rights of Denmark. Had they indeed been aware of the vexatious delays, the heavy expenses, and the arbitrary fines, to which they were exposed in the Danish tribunals, even in cases where restitution was finally awarded, and still more if they had been conscious that, where condemnation should be pronounced by those tribunals, upon grounds ever so slight, the formal sentences thus rendered would be considered as forming a perpetual bar to any subsequent appeal to the equity of his Majesty's Government, they might have shrunk from the hazard of such fearful consequences, and taken shelter in the arms of that power, which was so soon to become the enemy of their country, rather than rely upon the justice of a State with which she had always cultivated the most amicable relations. On the other hand, had they known of the existence of the royal ordinance of March, 1810, which made the fact of having used British convoy a conclusive cause of condemnation, they would have preferred to encounter all these multiplied but contingent perils, rather than the certainty of the fate which awaited them on capture under convoy. So that the innocence of their motives, and the good faith of their acts, is manifest from every view of their conduct, while the supposition that they took shelter under enemy's convoy, because they were carrying an enemy's traffic, is contradicted by the satisfactory proofs which they furnished, of the

neutrality of their property, and the lawfulness of their voyages.

Even admitting, then, that the neutral American had no right to put himself under convoy, in order to avoid the exercise of the right of visitation and search by a *friend*, as Denmark professed to be, he had still a perfect right to defend himself against his *enemy*, as France had shown herself to be by her conduct, and the avowed principles upon which she had declared open war against all neutral trade. Denmark had a right to capture the commerce of her enemy, and, for that purpose, to search and examine vessels under the neutral flag, while America had an equal right to protect her commerce against French capture, by all the means allowed by the ordinary laws of war between enemies. The exercise of this perfect right was wholly unaffected by the circumstance of the war existing between Denmark and England, or by the alliance between Denmark and France. America and England were at peace. The alliance between Denmark and France was against England, not against America; and his Majesty's Government, which refused to adopt the decrees of Berlin and Milan as the rule of its conduct towards neutrals, cannot surely consider it as culpable, on the part of the American shipmasters, to have defended themselves against the operation of those decrees, by every means in their power. If the use of any of these means conflicted in any degree with the belligerent rights

of Denmark, that was an incidental consequence, which could not be avoided by the parties without sacrificing their incontestable right of self-defence.

But it may perhaps be said that, as resistance to the exercise of the belligerent right of visitation and search, is, by the law and usage of nations, a substantive ground of condemnation *in the case of the master of a single ship*, still more must it be so where *many vessels are associated* for the purpose of defeating the exercise of the same right.

In order to render the two cases here stated perfectly analogous, there must have been an actual resistance on the part of the vessels in question, or at least on the part of the enemy's fleet having them at the time under its protection, so as to connect them inseparably with the acts of the enemy. Here was no *actual* resistance on the part of either, but only a *constructive* resistance on the part of the neutral vessels, implied from the fact of their having joined the enemy's convoy. This however, was, at most, a mere *intention to resist*, never carried into effect, which has never been considered, in the case of a single ship, as involving the penalty of confiscation. And the Government of the United States has always regarded it a peculiarly objectionable feature in the ordinance of 1810, as interpreted by the tribunals, (which interpretation has never been disavowed by the Danish Government,) that it considered the fact of *having made use of* British convoy as an indel-

ible offence, to be visited with the penalty of confiscation, even after the vessels had separated from the convoy, or on the return voyage where they had made use of convoy going up the Baltic.

But the resistance of *the master of a single ship*, which is supposed to be analogous to the case of convoy, must refer to a *neutral* master, whose resistance would probably, by the established law of nations, involve both ship and cargo in the penalty of confiscation. The same principle would not, however, apply to the case of an *enemy* master, who, having an incontestable right to resist his enemy, such resistance could not affect the *neutral* owner of the cargo, unless he was on board, and had actually participated in the resistance.

Such was, in a similar case, the judgment of Sir William Scott, whose decisions may certainly be considered as very good, and even conclusive authority, where he decides any thing *favorable to neutral rights*, however questionable they may be thought where they tend to confirm belligerent pretensions. So also, the right of a neutral to transport his goods on board even of an *armed* belligerent vessel was solemnly affirmed by the decision of the highest tribunal in the United States, during the late war with Great Britain, after a most elaborate discussion, in which all the principles and analogies of public law, bearing upon the question, were thoroughly examined and considered.

The American commissioner,

then, confidently relies upon the position before assumed by him, that the entire silence of all the authoritative writers on public law as to any such exception to the general freedom of neutral navigation, laid down by them in such broad and comprehensive terms, and of every treaty made for the special purpose of defining and regulating the rights of neutral commerce and navigation, constitutes, of itself, a strong negative authority to show that no such exception exists, especially as the freedom is expressly extended to every case which has the slightest resemblance to that now in question. It cannot be denied that the goods of a friend found in an enemy's fortress, are exempt from confiscation as prize of war; that a neutral may lawfully carry his goods in an armed belligerent ship; that the neutral shipper of goods on board an enemy's vessel, (armed or unarmed,) is not responsible for the consequences of resistance by the enemy master. How, then, can the neutral owner, both of ship and cargo, be responsible for the acts of the belligerent convoy, under the protection of which his property has been placed, not by his own immediate act, but by that of the master, proceeding without the knowledge or instructions of the owner?

Such would certainly be the view of this question if we apply to it the largest measure of belligerent rights ever assumed by any maritime State. But when examined by those milder interpretations of public law, which the Danish Government, in common



with the other northern powers of Europe, has hitherto patronized, it will be found still more clear of doubt.

If, as Denmark has always insisted, a neutral may lawfully arm himself against all the belligerents; if he may place himself under the convoying force of his own country, so as to defy the exercise of belligerent force to compel him to submit to visitation and search on the high seas; the conduct of the neutral Americans who were driven to take shelter under the floating fortresses of the enemy of Denmark, not for the purpose of resisting the exercise of her belligerent rights, but to protect themselves against the lawless violence of those whose avowed purpose rendered it certain that, notwithstanding their neutrality, capture would be followed by inevitable condemnation, will find its complete vindication in those principles which the publicists and statesmen of this country have maintained in the face of the world.

Had the American commerce in the Baltic been placed under the protection of the ships of war of the United States, as it is admitted it might have been, the belligerent rights of Denmark would have been just as much infringed as they were by what actually happened. In that case, the Danish cruiser must (upon Danish principles) have been satisfied with the assurance of the commander of the American convoying squadron of the neutrality of the ships and cargoes sailing under his protection. But that assurance could only have been founded upon their being accom-

panied with the ordinary documents found on board of American vessels, and issued by the American Government, upon the representations and proofs furnished by the interested parties. If these may be false and fraudulent in the one case, so may they be in the other, and the Danish Government is equally deprived of all means of examining their authenticity in both. In the one, it is deprived of these means by its own voluntary acquiescence in the statement of the commander of the convoying squadron; in the other, by the presence of a superior enemy's force preventing the Danish cruiser from exercising his right of search. This is put for the sake of illustration, upon the supposition that the vessels under convoy had escaped from capture; for, upon that supposition only, could any *actual* injury have been sustained by Denmark as a belligerent. Here they were captured without hostile conflict, and the question is, whether they are liable to confiscation for having navigated under the enemy's convoy, notwithstanding the neutrality of the property, and the lawfulness of the voyage in other respects? Even supposing, then, it was the *intention* of the American shipmasters, in sailing with the British convoy, to escape from *Danish* as well as *French* cruisers, that intention has failed of its effect; and it may be asked what belligerent right of Denmark has been practically injured by such an abortive attempt? If any, it must be the right of visitation and search. But the right of visitation and search is

not a substantive and independent right, with which belligerents are invested by the law of nations for the purpose of wantonly vexing and interrupting the commerce of neutrals. It is a right, growing out of the greater right of capturing enemy's property or contraband of war, and to be used as means to an end to enforce the exercise of that right. Here the exercise of the right was never, in fact, opposed, and no injury has accrued to the belligerent. But it may be said that it might have been opposed, and entirely defeated, had it not have been for the accidental circumstance of the separation of these vessels from the convoying force, and that the entire commerce of the world with the Baltic sea might thus have been effectually protected from Danish capture. And, it may be asked in reply, what injury would have resulted to the belligerent rights of Denmark from this circumstance? If the property be neutral, and the voyage lawful, (as they were in the present instance,) what injury would result from the vessels escaping from examination? On the other hand, if the property was that of the enemy, its escape must be attributed to the superior force of the enemy, which, though a *loss* would not be an *injury*, of which Denmark would have a legal right to complain. Unless it can be shown that a neutral vessel navigating the seas, is bound to *volunteer to be searched* by the belligerent cruisers, and that she has no right to avoid search *by any means*, it is apparent that she may avoid it by any

means which *are not unlawful*. Violent resistance to search, rescue after seizure, fraudulent spoliation, or concealment of papers, are all confessedly unlawful means, which, unless extenuated by circumstances, may justly be visited with the penalty of confiscation. Those who allege that sailing under belligerent convoy is also attended by the same consequences, must show it by appealing to the oracles of public law, to the text of treaties, to some decision of an international tribunal, or to the general practice and understanding of nations. If all these are silent upon the subject, can it be expected that the Government of the United States will relinquish their claim to an indemnity for the property of their citizens thus captured and confiscated, even if the question were more doubtful than it is, upon principle and analogy?

3. The third general ground of capture of American vessels and cargoes, that of their being possessed of French consular certificates of origin after the French consuls in the United States were prohibited by their own Government to issue them, except to vessels bound directly to the ports of France, proceeded upon mistaken assumption of fact. The French consuls were accustomed to give their certificates to any American vessel applying for them, without regard to the port of destination, except that it must be a port of France or of an ally of France, or of a neutral power. In the year 1810, the French Government forbade the granting these certificates to any other vessel

then those bound to the ports of France; but the instructions to to that effect did not reach the French consuls in the United States until the 13th of November of that year, prior to which time those certificates bore date which were made the pretext for the seizure of American vessels by the Danish cruisers. Even if the certificates had been spurious, as was supposed, contrary to the fact, that would not have been a justifiable cause for the seizure and confiscation of an American vessel under Danish authority, whatever might have been the consequences in the tribunals of France of a capture by a French cruiser. As to Denmark, a French certificate of origin, not being a document required by the law of nations, was a paper altogether unimportant and superfluous. Indeed it is difficult to conceive how it should even have been otherwise considered by the Danish tribunals, since it is said that his Majesty had not adopted the decrees of Berlin and Milan, and the other violent measures of France against neutral trade.

The commissioner of the United States cannot conclude this declaration without inviting the attention of his Majesty's commissioners to that mode of terminating the present controversy, which, as he has already suggested, would be most acceptable to his Government, viz. the establishment of a mixed commission to examine and decide, according to equity, justice, and the law of nations, the respective claims which the citizens and subjects of the two countries have on the Government of each.

*Mr Van Buren to Mr Wheaton.*

Department of State, }  
Washington, January 13, 1830. }

SIR: Your despatch No. 9, of the 17th of October, 1829, was received on the 13th, and the duplicate of it on the 18th of December. Having submitted it to the President, I am instructed by him to state to you in reply, that it is seen with regret, that your efforts to accomplish a satisfactory arrangement with the Danish Government, in relation to the long pending claims of American citizens upon that Government had so far proved abortive, and that your conferences with the commissioners appointed by the King to adjust with you this interesting concern, had resulted in the offer on their part, of a sum so very inadequate to the object, and so entirely disproportioned to the amount of indemnity justly due. It is confidently hoped, however, that other views, may have since brought about a change in the councils of the Danish Government upon this subject, and induced it to unite with you towards effecting a compromise upon principles not derogatory to the honor of the United States, or involving such great sacrifices of the just rights of their citizens; but if this, unfortunately, should not have been the case, it is the wish of the President that you take an early opportunity to make known to the Danish Government the deep disappointment which is felt by this, that the very moderate views and expectations of the claimants should have been met by a spirit so little accordant with those views; and that the President is



by no means disposed to give up or relinquish the prosecution of their unquestionable rights to indemnity.

You are already apprised of these views, through the confidential communication which the agent of the claimants addressed to you upon the subject, before his late departure from Copenhagen, and will be governed accordingly in your acceding to any adjustment, in other respects acceptable, which may not fall short of them.

In urging a settlement of those claims, you will remind Count Schimmellmann of the former declaration which was made to Mr Pedersen, minister resident of his Danish Majesty in the United States, by the then Secretary of State, by direction of the late President, on the 26th April, 1826, at the exchange of the ratifications of the 'general convention of friendship, commerce, and navigation, between the United States of America and his Majesty the King of Denmark;' that the government of the United States was firmly resolved to persevere in the pursuit of them 'until they should be finally arranged upon principles of equity and justice; and of the official answer returned by Mr Pedersen on the same day, acknowledging the receipt of Mr Clay's note, containing that declaration on the part of the United States; which he says he would transmit to his government, as he doubtless did, with the ratification of this government, to which both notes were subjoined, as forming a part of the treaty itself, and as evidence

of the solemn condition upon which that ratification was made and exchanged. And you will take advantage of the occasion, to state to his Danish Majesty's Government, in earnest but respectful terms, that the present Executive of the United States will not be wanting in all suitable exertions to make good that declaration.

If you should conclude an arrangement with the Government of Denmark, in time to be laid before the Senate during its present session, it will be still more satisfactory to the President. In that case, should it become necessary to ensure the seasonable receipt at this place, of the convention, that you employ a courier to convey it to the minister of the United States at London, who will have constant opportunity of forwarding it hither, you are authorized to do so at a reasonable expense.

I am, sir, with respect, &c.,  
M. VAN BUREN.

HENRY WHEATON,  
Chargé d' Affaires of U. S. at Denmark.

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*Mr Wheaton to Mr Van Buren.*  
Copenhagen, March 6, 1830.

SIR: Your despatch, No. 8, under date of the 13th January, was received on the 23d February.

I immediately waited on Count Schimmellmann and Mr Stemann, and communicated to each of them the views of our Government upon the present posture of the negotiation, which I accompanied with such observations as I deemed suited to enforce these views.

In order, however, not to omit anything which might give weight to this final appeal to the justice and friendship of the Danish Government, I thought it expedient to hand to the ministers a written note. In framing this note, (a copy of which is enclosed,) I thought I should best fulfil the President's intentions, as explained in your despatch, by incorporating into it the tenor of the despatch itself. I have since omitted no suitable opportunity of urging upon Count Schimmelmänn the importance of a prompt decision, which he has very earnestly promised me.

In the mean time, I have thought it best to acknowledge the reception of your despatch, and to inform you of the steps I have taken to execute your instructions.

I have the honor to be, with high consideration and respect, sir, your most obedient and humble servant,

HENRY WHEATON.

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Copenhagen, February 25, 1830.

The undersigned, *Chargé d'Affaires* of the United States of America, duly empowered to treat with their excellencies, Count Schimmelmänn and Mr De Stemann, commissioners of his Danish Majesty, on the subject of the claims of American citizens for the capture and condemnation of their property, under the authority of the Danish Government, during the late maritime war, has the honor to state to the Danish commissioners, that the undersigned has just received the special instructions of

his government to call the attention of his Majesty's commissioners to the present state of the negotiation.

The Government of the United States has seen, with regret, that the efforts of the undersigned to accomplish a satisfactory arrangement with the Danish Government, in relation to the long pending claims of American citizens upon that government, have hitherto proved abortive, and that the conferences of the undersigned with the commissioners appointed by his Majesty the King to adjust, with the undersigned, this interesting concern, have resulted in the offer, on their part, of a sum so very inadequate to the object, and so entirely disproportioned to the amount of indemnity justly due.

The undersigned is directed by the President to make known to his Majesty's Government, the deep disappointment which is felt by the Government of the United States, that the very moderate views and expectations of the claimants should have been met by a spirit so little accordant with these views; and that the President is by no means disposed to give up or relinquish the prosecution of their unquestionable right to indemnity.

In urging a settlement of these claims, the undersigned is also instructed to remind the Danish commissioners of the former declaration made to Mr Pedersen, minister resident of his Majesty in the United States, on the 25th April, 1826, by the then Secretary of State, under the direction of the late President, be-

fore proceeding to the signature of the subsisting convention of friendship, commerce and navigation, between the two countries, that the omission to provide in the treaty for the indemnities due to citizens of the United States, in consequence of the seizure, detention, and condemnation of their property in his Majesty's ports, was not thereafter to be interpreted into an abandonment of them by the Government of the United States, which, on the contrary, was firmly resolved to persevere in the pursuit of them, until they should be finally arranged upon principles of equity and justice ; and to guard against any misconception of the fact of the silence of the treaty in this particular, or of the views of the American Government, Mr Pedersen was requested by Mr Secretary Clay to transmit that declaration to the Government of Denmark. In Mr Pedersen's reply to the official note containing this declaration, he acknowledges its reception, and engages to transmit the same to his Government, which, it is understood, was actually done, with the ratification of the American Government, to which both notes were subjoined, as forming a part of the treaty itself, and as evidence of the solemn condition upon which that ratification was made and exchanged.

The undersigned is now authorized and instructed to state to their excellencies the Danish commissioners, in the most earnest manner, but with all the respect which is due to a friendly power, that the present Executive of the United States will not

be wanting in all suitable exertions to make good that declaration.

The undersigned is also instructed to inform the Danish ministers, that any arrangement of this important subject, which may be made by way to compromise, will be still more satisfactory to the President, if concluded in time to be laid before the Senate of the United States for ratification during the present session of Congress.

The undersigned forbears from pressing upon the attention of his Majesty's commissioners all those considerations growing out of the mutual relations between the two countries, which might be urged in favor of a prompt and satisfactory adjustment of the only subject of difference which could possibly interrupt the harmony which it is the unquestionable desire of the Government of each nation to cherish and invigorate. All these considerations will readily suggest themselves to the minds of their excellencies. The undersigned will, therefore, only add the assurance of his own personal anxiety to contribute by all honorable and proper means, his humble efforts to strengthen the ties of friendship which so happily exist between the Republic he has the honor to represent, and a Government for which he feels the sincerest respect.

The undersigned seizes this occasion to renew to their excellencies, his Majesty's commissioners, the assurances of his very distinguished consideration.

H. WHEATON.

To their Excellencies the Danish Commissioners.



*Correspondence relating to the Arrangement of the Trade between the U. S. and the British Colonies.*

*Mr McLane to Mr Van Buren.*

London, November 14, 1829.

THE absence of Mr Vezy Fitzgerald, the President of the Board of Trade, until the 1st instant, deprived me of the opportunity of an interview with him until the 3d and 4th; and the absence from town, and other engagements, of Lord Aberdeen, necessarily postponed any further conversation with him until yesterday. With him I had an interview yesterday, by appointment, and again discussed the subject of the colonial trade, and the objections urged by this Government to any change, for the present, in their colonial regulations.

In addition to what I have already communicated in my former despatches, the principal objections to a renewal of the offer of the trade to the United States upon the terms of the act of Parliament of 1825, or to make any change in the present regulations, appear to be the impracticability of changing their policy at the present period, without any alteration in the state of things in the United States; and it is made a serious ground of complaint that the late administration, failing to embrace the terms offered to the United States in common with other nations, resented a measure occasioned by their own wrong, by a heavy, and, what is here denominated an unparalleled retaliation upon the trade and commerce of Great Britain between their colonies and the U. States.

This Government supposes, moreover, that a great portion of

the trade with the British West India Islands, now carried on through the neutral entrepôts, and all of that passing through the British possessions in North America, is on British account, and by British subjects, who have thus embarked their capital, relying upon their Government to adhere to the terms of the act of 1825, and the order in council consequent thereon. All these objections are allowed to have more weight than they really deserve, and the last is urged by the interest to which it relates, aided by those concerned in navigation, with great zeal and activity, and with considerable influence.

After the fullest and most laborious discussion of all these topics, I am perfectly satisfied that no adjustment of this question, which does not remove or obviate these objections, can be made, at least for the present. Of this, the decided opinions uniformly expressed by each member of the Government with whom I have conducted the negotiation, leaves no doubt. Therefore, in my last interview with the President of the Board of Trade, and in that with Lord Aberdeen yesterday, I shaped my propositions in such manner as to get rid, as far as possible, of what are absolutely insuperable difficulties to any adjustment whatsoever.

This might be done by reverting to the state of things, so far as respects our colonial regulations, existing at the date of the

British act of Parliament of 1825, and doing by legislation now, what ought to have been done then, and which I professed myself willing to recommend to my Government, if I could be assured that such measures would be immediately followed by a revocation of the British order in council, and the extension to the United States of the advantages of the act of Parliament of 1825. To this view of the subject, presented strictly in accordance with the spirit and letter of my instructions, Lord Aberdeen declined giving a final answer until he could submit it to a cabinet council, which was expected to, and indeed did, take place yesterday.

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*Mr McLane to Mr Van Buren.*

London, November 22, 1830.

I forwarded you by the last despatch, the copy of a schedule of duties proposed by *Mr Herries*, the late President of the Board of Trade, in relation to their colonial trade. At that time, I had reason to believe that this measure, recommended under the influence of the ministry, would probably pass with little material attention. The recent occurrences, however, have changed these expectations, and I am now inclined to believe, that, if it pass at all, it will previously undergo some very material modifications more favorable to our interest in the colonial trade.

So far as we have a right to interfere, in any way, with the legislation of this Government in its colonial trade, I shall not be insensible either to the spirit of the arrangement recently concluded,

or to the general interests of our citizens.

It ought not to escape you, however, that, although until further legislation on this subject by the British Government, the trade will be carried on according to the recent arrangement, yet that, by the act of 7th of George IV, passed subsequently of course to that of 1825, but before the date of the order in council of 27th July, 1826, the free warehousing system, in the northern ports, for American flour, was authorized, and that article might be taken there, in British ships, to the West Indies, at a duty of 1 shilling per barrel. That act was general, and nominally applicable even to those nations who had complied with the conditions of the act of 1825, and was in operation when Mr Gallatin and Mr Barbour renewed their negotiation. How far we can, with propriety, oppose the present bill, under these circumstances, is not entirely clear, even if the interests of our commerce required it. I need only add that the whole subject will command my constant attention.

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*Mr McLane to Mr Van Buren.*

London, December 14, 1829.

Finding myself unable, in the course of my verbal conferences with this Government, to obtain a definitive answer to the propositions I submitted for an arrangement of the colonial trade, I determined to ask for it by letter, that I might be able to announce the views of this Government in a more formal manner.

I accordingly addressed a letter to Lord Aberdeen, on the 12th instant, and, having this day received his answer, I have the honor to enclose, herewith, copies both of my letter and his.

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*Mr McLane to Mr Van Buren.*

London, March 22, 1830.

I have the honor to forward, herewith, a copy of my note to Lord Aberdeen, of the 16th instant, requesting the answer of this Government, without longer delay, to my letter of the 12th December last.

In my official despatch, No. 6, of the 14th December, I informed you that, until the decision of this Government should be known, I should continue to enforce the views of the President as often as it might conduce to a favorable result. I have accordingly done so, in repeated conferences with the Duke of Wellington, Lord Aberdeen, and Mr Herries.

From the general character of my interviews with these ministers, I did not doubt that their desire for delay was compatible with a disposition to reciprocate the liberal views by which the President is actuated. I therefore felt authorized, by your letter of instructions of the 27th December, to acquiesce in it as long as that could be done without risking the adjournment of Congress.

I did not imagine that any hazard would be incurred, if I were enabled to communicate the result by the packet of the 24th instant; and I accordingly, in all my interviews, urged an answer

in season for that opportunity. Receiving, in the course of my various conferences, more than one suggestion of the propriety of committing to paper, for the purpose of more ready reference, some of the general considerations connected with the present state of the negotiation, and in reply to the principal objections to a favorable adjustment, I eventually determined to do so, in the form of a note, which should, at the same time, make a last request for the decision of this Government. At the time of presenting this note, I repeated my desire to have the answer before this day; but I regret to add that it has not yet come, and that I shall, consequently, be prevented from forwarding any result whatever before the packet of the 1st April, which may possibly not arrive before Congress rises.

Under these circumstances, my note to Lord Aberdeen will fully inform you of the present state of the negotiation, and the general character of the measures which I have felt it proper, conjecturally, to state, as likely to follow a decision on the part of this Government.

There certainly ought to be no motive with this Government longer to delay their answer, unless that of ultimately assenting to an arrangement; and the United States ought not to lose, for a year, the opportunity of their legislation, in the event of a rejection of their proposition. In this view, I take leave to suggest that it may not, perhaps, be inexpedient, in case the packet of 1st April should be delayed, to



provide for a decision in the recess, by a prospective legislation, authorizing the President, in case of an arrangement, to comply with the terms, on our part, by his proclamation; or, by similar means, to execute the views of Congress in the event of an unfavorable decision.

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*Mr McLane to Mr Van Buren.*

London, November 13, 1830.

I informed you by my despatch, number 25, dated the 6th instant, that some attempt would probably be immediately made by this Government, by revising their system of colonial duties, to reconcile their northern provinces to the restoration of the direct trade with the West Indies. I have now the honor to forward a schedule of duties which contains the scheme of the ministers for this purpose, and I look to its final adoption without any material change.

It will be found to be less unfavorable to our trade than I had reason to apprehend at the date of my despatch of the 6th of April last, (No. 15) which was communicated to Congress previously to the passing of the act of the late session, of the 29th May, and perhaps not more unfavorable than, in my despatch of the 20th August, I led you to expect it would be.

The total repeal of the duty upon bread, in every form, and upon the lower qualities of bread stuffs, peas, beans, rye, calavances, oats, barley, rice, and live stock, and the admission of salted provisions at the duty of twelve

shillings per cwt. confer important advantages which we have never before enjoyed in the trade; and the augmentation of the duties upon other articles will tend rather to increase the price to the planter than to diminish the amount of the supply from the United States.

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*Mr Van Buren to Mr McLane.*

Department of State, }

Washington, November 27, 1830. }

SIR: The act of Parliament, of 24th June, 1822, (3 Geo. IV. c. 44,) contained, section third, a provision allowing certain articles therein specified to be imported from the continent of North America, &c., into certain enumerated ports in the British West Indies, in vessels of the country of which such articles are the growth, produce, or manufacture; *provided* no articles should be so imported, 'unless shipped and brought *directly* from the country or place of which they are the growth, produce, or manufacture.'

The act of 5th July, 1825 'to regulate the trade of the British possessions abroad,' recites, that, 'whereas, by the law of navigation,' (6 Geo. IV., cap. 109, s. 11,) 'foreign ships are permitted to import into any of the British possessions abroad, *from the countries to which they belong*, goods, the produce of those countries,' &c, and the law of navigation referred to in the foregoing, section 11, regulating importations in foreign vessels into the British possessions in America, is in the following words; 'And be it further enacted, that

no goods shall be imported into any British possessions in Asia, Africa, or *America*, in any foreign ships, unless they be ships of the country of which the goods are the produce, and from which the goods are imported.'

The first of the acts mentioned above, viz. that of the 24th June, 1822, is virtually repealed by that of 5th July, 1825, 'to regulate the trade of the British possessions abroad;' and importations into the dominions of Great Britain, in foreign vessels, are now regulated by the act last referred to, and the law of navigation above mentioned.

From a careful comparison between the language of the act of 1822, and that of the two acts 5th July, 1825, a doubt has arisen here, whether it was contemplated by the British Government that the importations into its possessions, in foreign vessels, should be as strictly confined to a *direct* voyage, as the insertion of the word '*directly*' in the act of 1822 would imply: or, whether the entire omission of that, or other words of similar import, in the acts of 1825, indicates such a relaxation in the restriction referred to, as to allow the admission of a foreign ship and her cargo to entry in a British colonial port, although she should, between the port of clearance and that of destination, have touched at a foreign port, or at some other British colony, to land part of her cargo, or for any other purpose not involving a violation of British regulations; or, in other words, whether an American vessel could be permitted to

clear from the United States with a cargo destined for two or more British colonial ports.

The less restricted language of the act of 1825, but, more particularly, the obvious spirit of the legislation of Great Britain in relation to her navigation and colonial systems, would appear to favor the more liberal construction of those acts, whose object is more to confine foreign vessels trading with her possessions, to the transportation of their own produce, than to cramp the navigation of other countries by restrictions from which no benefit can accrue to her. Inquiry upon this point has been elicited by the late arrangement of the colonial question, which has made it desirable that the two Governments should understand one another in relation to it.

On reference to the negotiation of Mr Rush in 1824, you will find that this subject had given rise to some conversation between him and the British plenipotentiaries, not so much on the main point, however, which appears to have been conceded by Great Britain, as respecting the question, whether a vessel of the United States, landing part of her cargo at one colonial port, and proceeding to another with the remainder, would be subjected to the payment of the tonnage duty at more than one of these ports during the same voyage? a question which Mr Huskisson, at that time President of the Board of Trade, promised to have adjusted upon principles of reciprocity, by placing vessels of the United States in the British

West Indies upon the same footing as British vessels in the United States. The enclosed extract from Mr Rush's despatch, No. 10, to the Secretary of State, dated 12th August, 1824, will make you acquainted with what passed between him and the British plenipotentiaries upon that point.

Under our view of the subject, the two following questions present themselves :

1. Whether a vessel of the United States, clearing from a port of the United States for the British colonies, shall be bound to clear for a particular port in said colonies, and to proceed direct to the port of her destination, without touching at any intermediate place?

2. Whether a vessel of the United States, landing a part of her cargo at a British colonial port, and proceeding with the remainder to another British colonial port, shall be subjected to the payment of other duties than those accruing upon the goods landed at such port ; and to the payment of the duty on the tonnage of the vessel, at more than one of the several ports which she may enter in the course of the same voyage?

The anxious desire of the President that as little as possible, of what relates to the subject of the colonial trade, should be left to doubt, surmise, or future discussion, has led to the directions I have received from him to call your immediate attention to this branch of the subject, with a view that you should ascertain the construction put by the Brit-

ish Government upon the language of their acts in this respect, and enable this Government to answer the numerous inquiries which are, and will probably continue to be, addressed to this department upon the details of the arrangement happily concluded between the two Governments. I forbear from enforcing, by any arguments which will readily occur to you, the propriety of this question receiving a liberal solution from the British Government ministers, whose frank and friendly deportment in the negotiation so satisfactorily terminated, leaves no cause to doubt their disposition to place the matter upon the most advantageous footing to the two countries. You will take an early opportunity to lay the subject informally and confidentially before the Earl of Aberdeen, and apprise this department, as speedily as possible, of his decision upon it.

You will of course understand, that, in the right of our vessels to stop at an intermediate port, or to land portions of their cargoes at different ports, that of exporting any articles from colony to colony, is not intended to be included. It will be seen by the enclosed correspondence between the Secretary of the treasury and myself, under date of yesterday, that the privilege and exemptions asked for in this regard, are secured to British vessels in the ports of the United States. This circumstance, together with what occurred at London in 1824, as well as the obvious justice of the request, induces us to hope that



it will be readily conceded by Great Britain, if it is not already secured by her colonial regulations applicable to other nations. All the information with which you can supply this department in respect to those regulations, will be acceptable.

I am, with great respect, your obedient servant,

M. VAN BUREN.

*Mr Van Buren to Mr McLane.*

Department of State, }  
Washington, 4th February, 1831. }

SIR: Your despatch, No. 28, with a copy of your note, of the 30th November, to Lord Palmerston, was received, on the 2d instant, at this department, and submitted to the President. He has directed me to express to you his approval of the ground taken by you in that note with regard to the bill introduced into the British Parliament by Mr Herries, proposing a new schedule of duties upon importations of foreign produce into the British West India Islands, and the satisfaction he has derived from the very able manner in which you have presented to Lord Palmerston, the views of your Government upon that subject. It is his desire that you should continue to occupy the position thus assumed, and to prosecute, by all the means which circumstances will render expedient and proper, your opposition to the adoption of the objectionable principle upon which the bill referred to is predicated.

In doing this, however, you will be careful not expressly to

commit this Government as to the course the President may feel it his duty to pursue in order to protect the interests of the United States against the effects of the proposed measure, in case it should be persevered in.

Your communication to the British Minister so completely embraces the subject in all its parts, as to leave but little, if anything, to be added in the shape of argument. I therefore will content myself, for the present at least, with referring to a circumstance which, in the examination of this extended and complicated matter, may have escaped your attention, or, of the knowledge of which you may not be possessed, although I am under the impression that the evidence of it is to be found in the archives of the legation. It is the unqualified concession by Great Britain, in the negotiation of 1818, of the principle now contended for by you, as you will perceive from the protocols of the 3d and 8th conferences between the British and American plenipotentiaries, in that year, which you will find in the pamphlet herewith transmitted to you, and from which it appears that this point was then a matter of perfect accord between the two Governments, and, in fact, almost the only one on which they agreed. You will easily be able to make the British Government sensible of the influence which this circumstance is calculated to exercise over your present discussions, as well in establishing the justice of what we now insist upon, as in affording ground for the expecta-

tion, on our part, that no principle conflicting with our claim, in this respect, would again be set up by Great Britain after the recent arrangement of this subject of protracted negotiation.

I am, with great respect, your obedient servant,

M. VAN BUREN.

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*Mr McLane to Mr Van Buren.*

London, December 16, 1830.

SIR: I have already informed you of the measure introduced into the House of Commons by the late President of the Board of Trade, relating to certain impost duties in the British American colonies, and of my intention to remonstrate against its adoption as inconsistent with the arrangement recently concluded with this Government. I have the honor, herewith, to forward a copy of the bill and schedule as introduced by Mr Herries, and also a copy of the note which I addressed to Lord Palmerston on the subject, which letter will satisfactorily explain the grounds of my objection to the proposed measure. I have not received a written answer to this note, but have understood both from Lord Palmerston and the President of the Board of Trade, and officially from the former, that the proposed measure will not be insisted upon, but will be withdrawn; and I am in daily expectation of receiving a formal note to that effect. A substitute will be introduced, however, on the reassembling of Parliament, which will take place between the 10th and 20th February, and will be

framed with a view to foster those interests in the British northern possessions which have arisen during the late restricted intercourse.

I am unable now to say what the precise character of the substitute will be.

The Board of Trade, so far as their sentiments may be inferred from the interviews I have had with the President, do not appear to attach the same importance that I do to the agreement contained in Lord Aberdeen's letter, but rather insist upon treating the act of 5th July, 1825, and consequently all arrangements connected with it, as a part of a general system of legislation regarding the commercial and navigating interests of the country, and liable to such modifications as those interests may occasionally require.

Independently, however, of the question of strict right, the President of the Board of Trade, Lord Oakland, professes a disposition to view the subject with a liberal eye, involving considerations of national amity, and to frame the substitute in such a manner as to place the commerce of the two countries upon a permanent footing, and as nearly reciprocal as the peculiar circumstances of the case will permit.

I do not consider that my instructions give me any power to negotiate respecting a scale of duties which the Government may be disposed to adopt. My instructions on this subject were at an end when the arrangement which they authorized was concluded; and the objects of my interference since, have been to

preserve inviolate the terms of that arrangement, to avoid the necessity of a recurrence to countervailing legislation, and, in any event, to leave the action of my own Government free ; so that if future proceedings on its part should be provoked by new legislation on the part of this Government, we may stand fair before our own countrymen and the world, in the measures to which it may be found necessary to resort.

It is impossible to view the letter of Lord Aberdeen in any other light than in that of an agreement, upon the issuing of the President's proclamation, to revert to the colonial system as definitively established by the act of the 5th July, 1825, and to restore to us the advantages of that system. It is equally clear that, in liberal national faith, there ought to be no departure from that agreement. But it is not to be concealed that the system of 1825, has been undergoing repeated alterations, even as to those nations who had seasonably complied with its terms. And that there are now existing acts of Parliament, passed in 1826, 1827 and 1829, conferring advantages on the indirect trade, which was not contemplated by the act 5th July, 1825.

The act of 1826, (the act of 7 George IV.) was in operation, as I have heretofore informed you, at the date of Mr Gallatin's proposition, and he certainly did not understand that his proposition would have authorized us to demand its refusal. For the present, however, our object is attained, and the same opportunity

will be afforded, which I shall not neglect, of discussing any subsequent bill which may be introduced. In the mean time, the trade will be enjoyed by both nations under the arrangement already executed, and the check, on which we have always relied, that of mutual legislation, will remain.

It is not to be supposed that the recent bill has been withdrawn with any other motive than to substitute a measure of greater reciprocity, and more likely to prove permanently satisfactory.

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*Mr McLane to Viscount Palmerston.*

9, Chandos St. Portland Place, }  
November 30, 1830. }

It is not without unfeigned regret that the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, finds himself constrained, by circumstances, to invite the attention of Viscount Palmerston, his Majesty's Principal Secretary of State for Foreign Affairs, to the arrangement recently concluded with his Majesty's Government for the restoration to the United States of the direct trade with the British West Indies.

It is not unknown to Lord Palmerston, that the difficulties, so happily adjusted by this arrangement, had been, for many years, a source of unpleasant controversies between the two Governments, and that each viewed, with satisfaction, an opportunity of finally extinguishing them. That the Government of the United States has been sincerely actuated by such feelings, and that it will continue to be actuated



by them in its future legislation, the undersigned is thoroughly convinced ; but it is with pain and surprise he perceives that the measure recently introduced into the House of Commons, imposing certain import duties in the American colonies, is incompatible with such views, and repugnant to the fair and liberal spirit of the before mentioned arrangement.

In fact, it would appear that the bill, in its present form, is calculated, if it be not so intended, virtually to revive, by a scale of discriminating duties, in lieu of positive interdiction, the same system of restricted and indirect trade which each Government, by the arrangement recently concluded, professed to abolish. Viewing it in this light, the undersigned early signified, by letter, to his Majesty's late Secretary of State for Foreign Affairs, his disapprobation of the measure, and his intention earnestly to remonstrate against its adoption.

Occurrences having withdrawn that distinguished personage from his Majesty's service before such intention could be executed, the undersigned has been induced to defer all formal communication on the subject until the new organization of his Majesty's Government shall be completely adjusted.

It is not the intention of the undersigned to revive any part of the discussion which led to the arrangement now in execution by both Governments. Nor is it material to inquire into the propriety of any measures of legislation which Great Britain might have medita-

ted previously to the arrangement, or whether she might have withheld the privileges now conceded, consistently with a liberal justice towards the United States. However the case may have stood previously, now that the arrangement has been actually assented to, the known probity of his Majesty's Government may be confidently appealed to for its faithful execution, and for the discouragement of any attempt, by indirect means, to affect its provisions on a point that, in fairness, could not be directly attempted.

It may not be altogether unnecessary to remark, however, that the concession involved in this arrangement, on the part of Great Britain, was not gratuitous. It was, on the contrary, made for those equivalents which she herself asked as beneficial to her colonial and navigating interests, in her great adjustment of these interests in 1825, nor were those privileges conceded to the United States until all those equivalents were fully and actually accorded.

This subject is, therefore, now presented to his Majesty's Government for the fair and just execution of an agreement, not for an inquiry into its practical operation. In this sense alone the undersigned desires, at present, to be understood. However, in practice, this arrangement may affect the trade of the United States, he is satisfied with its conditions. He is content, for the present, to leave speculations of commercial gain to those who may practically engage in the trade, being convinced that ex-

perience will show the fallacy of those jealous and interested calculations which have impeded the operations of either Government, and the solid and enduring advantages which must result to both nations from commercial intercourse based on the fair foundation of reciprocal benefit and mutual good will.

The proposition of the undersigned, which led to that arrangement, asked for a participation in the advantages of the direct intercourse as offered by the act of Parliament of the 5th July, 1825, in the hope thereby to remove all previous restrictions upon that intercourse. Although this proposition was submitted by the undersigned, in writing, as early as the 12th day of December, it was not formally assented to by his Majesty's Government until the 17th of August last. In the interim, the Congress of the United States, at their last session, passed an act authorizing the President of the United States, by his proclamation in the recess, to rescind all the restrictive laws of the United States, so far as that might be necessary to comply with the expectations of Great Britain in the negotiations then pending. They also passed sundry laws reducing the duties upon many important articles of West India produce upon their importation into the United States.

These acts were communicated by the undersigned, to the Earl of Aberdeen, by a note dated the 18th day of July, and, on the 17th day of August, the final determination of his Majesty's Government was announced. In

communicating that determination, the Earl of Aberdeen enumerated several points in which the act of Congress of the United States might be susceptible of an interpretation inconsistent with the proposition originally submitted by the undersigned, and suggested the construction which that law ought properly to receive. After reciting the proposition, the Earl of Aberdeen in conclusion, remarked: 'It only remains, therefore, for the undersigned to assure Mr McLane that if the President of the United States shall determine to give effect to the act of Congress, in conformity with the construction put upon its provisions both by Mr McLane and the undersigned, all difficulty on the part of Great Britain, in the way of a renewal of the intercourse between the United States and the West Indies, according to the foregoing proposition made by Mr McLane, will thereby be removed.'

On the receipt of this communication, the President of the United States, viewing it naturally in the light of an engagement by his Majesty's Government, and actuated by a spirit of the highest liberality, determined to give effect to the act of Congress, in complete and unreserved conformity with the construction put upon its provisions by the Earl of Aberdeen, and immediately issued his proclamation.

In consequence of that act, the vessels of Great Britain have, since the 5th day of October last, been in the complete enjoyment of the direct intercourse between the United States and the British

West Indies, according to the requisitions of the act of Parliament of the 5th July, 1825.

This prompt proceeding on the part of the President of the United States, being communicated by the undersigned to the Earl of Aberdeen, was immediately responded to by the order in council of the 5th November, intended by his Majesty's Government as the execution of their part of the arrangement. But the proposition of the United States, submitted by the undersigned, did not ask merely for a revocation of the order in council of the 27th July, 1826, and the abolition or suspension of all discriminating duties upon American vessels in the British colonial ports: 'it required, also,' the enjoyment, by the United States, of the advantages of the act of 5th July, 1825; and the Earl of Aberdeen, in his letter to the undersigned, wherein he engaged that, on the issuing of the President's proclamation, the intercourse between the United States and Great Britain should be renewed, according to the proposition necessarily included in that engagement, the enjoyment of those advantages, fully and without reserve.

This act, therefore, was in this manner recognised as the basis, at once, of the policy of Great Britain in the direct intercourse permitted with her colonies, and of the arrangement opening that intercourse to the United States.

If this could in any wise have been considered equivocal, it would be made altogether certain by the explanatory statement of the late President of the Board

of Trade when introducing the bill to the notice of the House. On that occasion, with no less force than accuracy, he remarked, 'the act to take into consideration, of which the House has resolved itself into committee, is that which relates to foreign trade with the British West India Islands, and a system of regulations *founded on the principles adopted by the British Government in the year 1825.*

'In order to explain satisfactorily to the committee my reason for proposing the changes in the schedule to which I have adverted, it is necessary only for me to say that the event so long looked for on this subject, is at length finally concluded between the United States and the British Government. I have the gratification of being able to state that a topic of discussion between the two nations, which has occupied the longest time, and was of the most intricate character of any within my memory, and which has been subject to many variations of pretension on both sides, has now been amicably, and I trust forever terminated, to the satisfaction of both parties. Further I have to inform the committee that *the adjustment has taken place on the basis, and without the slightest departure from that basis, of the act of 1825*, which laid down definitely the principles on which Great Britain would allow to foreigners, a participation in the trade of her West India possessions. It is scarcely necessary for me to add, that the American Government have withdrawn all their pretensions, and



have rescinded their act of 1822 which declared that the circuitous route should still be adhered to, and that *England now stands on that footing which she announced, in 1825, as the one which she would maintain.*

Whether we consider the provision of the act of 1825, thus referred to, or the exposition given of it, at the time, by the late Mr Huskisson, its principles and spirit are intelligible and explicit. It was intended, thereby, to benefit the West India Islands, by extending the market for their productions, and by procuring for them such foreign supplies as their necessities required, through the means of an unrestricted and direct intercourse with foreign ports. It moreover authorized foreign vessels to engage freely in that intercourse, with the simple limitation of subjecting (in the language of the late Mr Huskisson) foreign goods, imported into the colonies, to *such moderate duties* as might be found sufficient for the *fair protection of British productions of a like nature.* The attainment of these objects, however, depended upon the reciprocity of foreign nations, who were, therefore, invited to a coöperation by the provisions of the law.

From this circumstance, as well as from the limitation in the last section of the act, of the right of amending, altering, or repealing, to the then session of Parliament, it might have been reasonably inferred that the considerations held out to those nations, who should accede to the specified terms, would partake more of the character of compact, and

be more durable, than in cases of ordinary legislation.

Pursuant to such principles and objects, the act wisely abstained from establishing, or encouraging, any indirect trade that might come in rivalry of the direct intercourse, and thereby weaken its advantages, or deter other nations from embracing its provisions. Certainly, the consideration that dictates this precaution could lose none of its force, when applied to a nation that might subsequently be admitted, by positive arrangement, to the same advantages. Consistently with these views, that act made a discrimination for the protection of *British productions*, by admitting their importation both into the northern colonies and into the West Indies, and from one to the other, free of duty, while it imposed a duty, of some extent, upon those of the United States; with equal consistency it established a system of warehousing in the ports of *Kings-ton*, in the island of *Jamaica*, *Halifax*, in *Nova Scotia*, *Quebec*, in *Canada*, *St Johns*, in *New Brunswick*, and *Bridgetown* in the island of *Barbadoes*. In this way, the act placed the southern and northern, colonies upon an equality in the warehousing system, and did not, thereby, exempt the produce of other countries from duty, if taken through the warehousing ports; but imposed the same degree of discrimination, whether imported in a British vessel indirectly through the warehousing ports, or directly from the ports of the foreign country where it was produced.

It is obvious that this was the only substantial equivalent yielded to foreign countries, but especially to the United States, in return for their abolishing all discriminating duties of British vessels and their cargoes, and for placing those vessels on a footing with their own in the direct intercourse between their ports and those of the northern and southern colonies.

It was, moreover, indispensable, effectually, to preserve to the United States the fair advantages, and an equal share, of such intercourse with the British West Indies. It is equally obvious that the duties prescribed by the '*schedule*' attached to the act of Parliament of 1825, was not designed either to counteract or impair the direct trade, or to give any preference to the British navigation; but, in the language of Mr Huskisson, '*for the protection of British productions in preference to foreign produce of a similar kind.*'

To a reasonable scale of duties, calculated, *bona fide*, to attain that object, the undersigned has neither the right nor the disposition now to object. Neither could he be capable of now opposing the right or propriety of increasing the rate of duties on the schedule attached to the act of 1825, for a similar purpose.

The right of imposing the protecting duty in the schedule of 1825, he frankly conceded throughout the late negotiation. Nor was this right merely conceded by him, but the intention of exercising it, to a greater extent at some prop-

er time, was fairly reserved in the note of Lord Aberdeen, of the 17th August. In that note, the late Secretary for Foreign Affairs, observed, that his Majesty's Government had already had under their consideration, the expediency of introducing some modifications into the schedule of duties attached to the act of Parliament of 1825, with a view, more effectually, to support the interests of the British northern American colonies.'

While, however, the undersigned would neither oppose nor avoid this reservation, he would expect that the modifications should be fairly confined to the objects and the original import of that *schedule*, and reasonably reconcilable with the main stipulation on the part of the United States, agreed to by his Majesty's Government, that the former are to be admitted to the full enjoyment of the *advantages of the act of 5th July, 1825*. He feels persuaded that neither the late Secretary of State for Foreign Affairs, nor any succeeding minister of his Majesty's Government, would assert, upon the strength of the before mentioned concession and reservation, the right or propriety of modifying a schedule, intended for the protection of the British productions, in such manner as not merely to leave them without protection, but absolutely to check and discourage them by the competition of large supplies of similar productions of foreign growth, forced through the indirect channels of the northern ports, to the destruction of the direct trade.

That such, however, will be

the operation of the bill recently brought before the House, is but too certain. The principal supplies from the United States to the British West Indies, consists of shingles, staves, headings, wood, hoops, white, yellow, and pitch pine, lumber, and wheat, and wheaten flour. While, by the present bill, the duty on all of those articles, especially flour, is considerably augmented when imported into the *southern colonies*; by the direct intercourse, their importations into the *northern colonies* is admitted free of duty, and from thence into the southern colonies upon the same terms. At the same time, also, that it augments the duty on flour in the direct trade, it authorizes that article to be warehoused in the free ports, without payment of duty, for exportation to the southern colonies. It moreover confines the right of warehousing to the northern ports only, whereas, by the act of 1825, that right was extended equally to the ports in the northern and southern colonies. It is plain, therefore, that, in this respect, at least, it can have no other object than to raise up an indirect trade through these northern ports.

From these facts, it is obvious that this bill does not aim to protect, by moderate, or even high duties, British productions, or to give a preference to the supply from British possessions of their own produce over that from other countries; on the contrary, it clearly concedes the necessity of the foreign supplies. but provides the means of receiving them through an indirect, rather than a direct

trade. While the arrangement, therefore, proposes to restore the advantages of the direct intercourse, the bill, by a premium on the one hand, and a prohibitory duty on the other, renders the direct intercourse nominal merely, and forces the foreign supply through the same indirect channels from which both Governments had designed to extricate it.

In lieu of the positive interdict by the order in council now revoked, there will be substituted by this bill a system of discriminating duties, equally effectual in depriving the American navigation of the transportation of American produce, and equally oppressive to the West India consumer, on whom must eventually fall the burthen of the additional duties, and the expense of the circuitous importation thus established and perpetuated. It may not be necessary for the undersigned to inquire whether the amount of duty be adequate to the effect thus apprehended, since that inquiry cannot, in his opinion, be material. If inadequate, it must operate as a most unnecessary burthen upon the West India consumer, and ought, for that reason, to be avoided. It must be obvious, however, that the discriminating duty of fifty per cent, which is, in most instances, provided by this bill, is more than sufficient to cover the expense and charges, even for a double voyage, unlading, warehousing, and relading, whereby it not merely deprives the West India planter of all the benefit intended for him by the act of 1825, but effectually supersedes the direct intercourse.



However this may be, if it be allowable for Great Britain, by such means, to counteract at will the fair advantages of the direct trade, the insufficiency of the present measure may soon be remedied by still higher duties, and the direct intercourse thereby entirely destroyed. It is, therefore, the mode, rather than the amount, of this discriminating impost, to which the objection applies.

That such an interference with the direct intercourse could not be permitted, consistently with the provisions of the act of 1825, the undersigned considers too clear for argument. The provisions both of that act, and of the schedule attached to it, prevented indirect trade; and it could not have been authorized until their regulations had been repealed, or their spirit entirely changed. As long as Great Britain thought proper to leave the direct trade open, or saw any prospect of inviting the participation of other countries in such intercourse, she neither contemplated nor desired any such change; and it would appear to the undersigned equally clear, that she ought not now to make the change to the detriment of a nation to whom she had formerly agreed to yield the advantages of that act.

The undersigned is, nevertheless, aware that the act of 7th George IV, passed the 26th May, 1826, but which was to take effect from and after the 5th July, 1825, authorized the article of *flour*, only, to be warehoused in the warehousing ports in the British possession, in North America,

and to be thence exported to the southern colonies, subject to a duty of *one shilling per barrel*. This, however, was no '*modification of the schedule*,' but a repeal, *pro tanto*, of the act of July, 1825; and was done, not for any regulation of the direct intercourse, which was soon to be prohibited, but in contemplation of the order in council, which must have been already determined upon. Notwithstanding that the operation of the act of 7th George IV, was to commence on the 5th July, 1826, and the British order in council, issued on the 27th of the same month, the former was, in fact, but the corollary, or consequence of the latter. It was distinctly avowed by the late Mr Canning, in his correspondence with Mr Gallatin, that, in point of fact, 'the United States had enjoyed the benefit of the act of 1825 by the unauthorized acts of the British authorities abroad, twelve months longer than they should have done, and that the British Government permitted the continuance mainly in consideration of certain proceedings in the Legislature of the United States;' and he also affirmed that 'immediately after the session of the Congress of the United States, which terminated on the 9th May, 1826, Mr Vaughan was instructed to announce the intention of his Majesty's Government to pass the order in council of July, 1826.'

It would appear from this, not merely that Great Britain had determined previously to the passing of the act of 7th George IV, to issue the order in council of

July, 1826, but that, in fact, by the provisions of the act of the 5th July, 1825, itself, the direct intercourse had been legally terminated. It was, doubtless, foreseen that, upon such termination of the direct intercourse, the American supplies, suited to the wants of the British West Indies, would seek that market, either through the foreign islands with which the trade was open by the act of 1825, or by the way of the British northern possessions.

The act of the 7th George IV, was, therefore, plainly intended, by the facilities then afforded, to secure the preference, in such indirect trade, at the northern ports; and that these facilities should be contemporaneous with the opening of the trade, it naturally preceded, in point of time, the order in council establishing such indirect intercourse. That such an act would not have been passed but in contemplation of this state of things, must be clear, since, upon any other supposition, it would have deterred the United States from a compliance with the conditions demanded by Great Britain herself, or would have rewarded their compliance with the loss of the only advantage for which it was yielded.

The limitation of the privilege of warehousing, by the act of 7th George IV, to the article of *flour* merely, does, of itself, show that it was intended to apply, as in fact it did, exclusively, to the produce of the United States in the indirect trade, and in no respect to the direct intercourse enjoyed by other powers who had acceded to the terms of the act of 5th July, 1825.

This section of the act of 7th George IV, therefore, was designed merely to make provision for that state of commercial hostility about to be resumed between the two nations, and to force the supply of American flour to the West Indies through the northern possessions, but under circumstances that would necessarily burthen the West Indian with the expenses of a circuitous route. It was not to change a system of direct intercourse, if that could have been established and engaged in by other nations, and by the United States, particularly, upon equal terms, but, to procure the most advantageous regulations for the northern colonies in a system of indirect trade which was then considered unavoidable.

In this view, therefore, when, by the arrangement recently concluded by the undersigned, a state of commercial amity and reciprocity is to take the place of former conflicting relations, and the restoration of the direct intercourse to be effected, it becomes necessary, for the full attainment of those ends, that the provisions of the act of 7th George IV, should fall with the system to which it was appropriated. The object of the order in council of 27th July, 1826, and of the act of 7th George IV, were identical. They operated to produce the same state of embarrassment, and, any agreement to repeal the one, ought necessarily to involve the repeal of the other. The disadvantages of the indirect intercourse, as regulated by the act of the 7th George IV, by which the produce of the United States, necessary to the supply of

the West India Islands, was forced through the northern provinces to the injury of the United States and of the planter, make no less a part of complaint than the order in council ; and the object of the negotiation, on the part of the United States, has uniformly been to obviate the evils of both, and to recover the advantages of the trade as regulated by the act of 1825.

The proposition submitted by the undersigned, and his predecessor subsequently to the act of 1825, asked for the advantages of that act, not as amended with a view to an indirect intercourse, but as it originally stood for the regulation of the direct intercourse.

It should always be borne in mind, that, in the indirect trade, as regulated by the act of 7th Geo. IV, and by the laws of the United States then in force, American vessels enjoyed the exclusive carrying of American produce to the foreign islands, and to the northern provinces, in which British vessels could not participate. The uniform object of Great Britain has been to remove the alien duties, and discriminating countervailing regulations of the United States, so that the vessels of both countries might participate equally in the direct intercourse ; and the United States agreed to allow such participation in that carrying trade, if they should therefore receive, as an equivalent, the advantages of the act of 1825. Now, by the execution of this arrangement on the part of the United States, Great Britain is in the enjoyment

of the privileges she demanded, while, by the bill as reported, the United States will be deprived of the only consideration for which she conceded them.

If, independently of the reservation in the letter of the Earl of Aberdeen, the act George IV, would not authorize the present bill, it is believed that it can derive no aid from that source. That reservation, without having the slightest allusion, is wholly inapplicable to the act of 7th Geo. IV, and relates, exclusively, to the '*modification of duties in the schedule attached to the act of 1825.*' The late President of the Board of Trade, in his remarks introducing the bill to the House, makes no reference to the act of 7th George IV, but professes merely to amend the before mentioned schedule. That '*schedule*' neither authorized the system of *free warehousing*, unknown to the act to which it was the appendage, nor professed to do more than accomplish and follow out, in detail, the expressed objects of that act. It may be insisted without the fear of contradiction, that the act of 1825, neither gave, nor affected to give, any preference to the northern over the southern colonies, or the slightest advantage to the transportation of *American produce* coastwise, from one colony to the other, that it did not enjoy in the direct intercourse ; and the '*schedule*' could not, without some positive enactment, have done so.

It is true that, early in the history of the contests between the two countries in relation to this



trade, the United States demanded that the produce of the *British colonies*, carried coastwise should pay the same duties as American produce in the direct transportation; but that pretension, which for some time was an obstacle in the way of an adjustment, was afterwards abandoned, and has never since been insisted upon. It is also true, and it is not less important to the history than to the correct understanding of this subject, that Great Britain in 1818, attempted, partially, to renew the trade which had remained suspended since the war of 1813. An act of Parliament was passed on the 8th of May, of that year, opening the ports of Halifax and St Johns to the vessels of the United States, for the importation of certain enumerated articles suited to the West Indies. By this act, and the order in council issued immediately thereupon, Great Britain proposed to counteract the previous legislation of the United States, and to lead to some relaxation of the trade. But it was suspected that she thereby intended, also, to force the supplies for the West Indies through those places of deposite. Being looked upon as invidious, therefore, these acts were not submitted to by the United States, and the system of restriction and retaliation was continued, with serious injury to both nations.

In the act of Parliament, however, of the 24th June, 1832, proposing to obviate all past difficulties, the right and expediency of imposing a higher discriminating duty on United States' produce, when taken direct, than when

carried from one colony to the other, was positively given up and prohibited; and therefore, although that act imposed a duty on American produce for the protection of *British productions* of similar kind, it nevertheless imposed the same duty on the former, whether taken directly to the West Indies, or circuitously through the northern ports. From that period, a contrary pretension, if it had ever seriously been maintained, was entirely relinquished, and was even more effectually disclaimed by the subsequent act of 5th July, 1825. By the policy fairly avowed in these acts, Great Britain insisted only on the following rights:

1st. To impose discriminating duties in favor of *British produce*.

2d. To limit the right of trading in vessels and produce of the United States to the direct intercourse from the United States to and from the colonies, and from the colonies to the ports in Europe, other than those of the United Kingdom.

3d. The right of British vessels to participate in the direct trade, and also in the circuitous trade through the colonies to and from European ports, including the ports of the United Kingdom.

After the passing of these acts, these, and the existing alien duties of the respective countries, comprehended all the points of difference; and, being mutually conceded and adjusted by the arrangement concluded, could not be revived without a violation of the only basis upon which the arrangement can be reasonably placed.

The act of 7th George IV, therefore, attempted, for the first time, to revive the pretensions of the partial law of 1818, by giving the advantage to the transportation of flour coastwise, and limited the warehousing ports to the northern colonies; and then, because the direct transportation of that article, as has been observed, was in fact, on the point of being prohibited, it ought, therefore, in the opinion of the undersigned, to be fairly conceded, that the act of the 7th George IV, is at variance, not less with the positive terms, than the spirit of the arrangement recently concluded between the United States and Great Britain, which should be permitted to rest exclusively upon the act 5th July, 1825.

The undersigned has heard it suggested, however, that the act of the 7th George IV, being in operation previously to the order in council of 27th July, 1826, and at the date of the arrangement, must, for that reason be considered as incorporated with the act 5th July, 1825, and the United States entitled to those advantages only, which the original and supplementary acts, taken together, confer. The undersigned confidently persuades himself that this suggestion will meet with no countenance from his Majesty's Government. Great Britain has, at no time proposed to other nations the terms of the act of 7th George IV, as the consideration of that reciprocity in the direct trade which she invited from them; for the plain reason, that such terms would have had no reciprocal character what-

ever, and she was, therefore, both too wise and too just to offer them.

If, previously to the act of 7th George IV, there had existed a treaty, or any other arrangement involving the good faith, or even the liberal dealing between the two nations, formed upon the basis of the act of July 5th, 1825, it will not be pretended that an act in contradiction both to the terms and spirit of that basis could have controlled it. That the act was previously passed, does not weaken the position, if it be, in no respect, referred to in the arrangement, and be equally repugnant to the basis on which both parties clearly and explicitly placed it. An act passed subsequently to another, and essentially altering its principles, cannot properly be incorporated with it. It stands in opposition thereto, and must exist independently, and, instead of mixing with its precursor, must itself fall, when by new legislation or conventional arrangement of equal force, the principle of the prior act shall be revived. The undersigned confidently submits to Lord Palmerston, that the plain and real spirit of the whole arrangement recently concluded, was the deliberate assent by Great Britain, to revert to her system of colonial policy, as definitively regulated by the act of 5th July, 1825, and to admit the United States to participate in that policy upon the terms expressly stipulated. On the clear deduction which follows from such premises, the undersigned needs no longer dwell.

But even such a supposition objectionable as it has been shown, and wide as it would depart from the express terms of the arrangement, would not authorize the present bill, which threatens to take away from the direct trade the advantages conferred by the act of 7th George IV.

An alteration in the '*schedule*' of duties, as it stood at the date of the arrangement for the protection of British productions, may not furnish a ground of complaint, since it is consistent with the privileges of supplying *American* produce in a *direct trade*, which any undue favor shown to the indirect trade would not be. But the undersigned takes leave to maintain, that, where, by an arrangement between the two Governments, the advantages of a particular course of trade are conceded, those advantages, by whatsoever law they should be ascertained, cannot be taken away or varied by subsequent regulations. Therefore, as the United States negotiated for the stipulated permission to supply their produce by a direct intercourse, and as such stipulation was granted, if they must be held to the advantages only as regulated by two acts dissimilar in their objects and provisions, they are entitled, unquestionably, to those advantages without further modification.

In this view of the subject, the alteration proposed by the present bill, involves principles, rather than amount; and, for that reason, should not be attempted. By the act of 7th

George IV, *American flour*, was liable, on its importation directly from the United States into the *British northern and southern* colonies, to a duty of five shillings per barrel; and, if warehoused in the northern ports, and thence exported to the southern colonies, to a duty of one shilling; but this little privilege was confined to flour only, and this in a limited extent. By the present bill, however, not merely the duty on the direct importation of flour from the United States to the southern islands, is increased to six shillings, but the indirect importation, through the warehousing ports, is authorized duty free, and a similar system of discrimination and encouragement is extended to lumber and most other articles. That there are unexampled and most material facilities to the indirect, to the prejudice, if not the total subversion, of the direct intercourse, and to an extent not intended even by the act of 7th George IV, must be apparent. Little could they have been contemplated by the United States: and if they may be carried to such a degree, according to the fair spirit of the arrangement, it is not perceived why they may not be carried so far as to interdict the direct intercourse, as effectually by a system of discriminating duties, as by the positive, and more open interdict of the order in council. There is, as has been shown, every reason to apprehend that such would virtually be the effect of this bill; and it may be here repeated that, if such be not the operation it must end in de-



feating another great object of the arrangement, more immediately concerning the interests of Great Britain herself, by obliging the West India planter to pay at least fifty per cent, more for his supplies. Such an apprehension derives the more force when it is considered that the bill, being unlimited as to time, cannot be considered as a gradual change of those interests which had incidentally arisen during a period of interdicted trade, but rather as a permanent system, giving them new life and energy.

If, therefore, the undersigned has succeeded in showing, as he hopes he has, that the present bill virtually destroys the fair advantages of the direct intercourse between the United States and the British West Indies, contemplated in the recent arrangement, he might confidently submit the subject, without farther observation, to the justice and good faith of his Majesty's Government.

There are, however, some other considerations connected with this measure, which are too important in their aim and bearing to be passed over in silence : of these, the fact that will call for the attention of Lord Palmerston, is the revival, in another form, and the perpetuation which it ensures, of the same invidious operation against the trade of the United States, which formed so just a ground of complaint under the order in council so recently revoked. Although this measure is apparently general, and nominally embraces all foreign nations, yet its provisions, practically, operate, if they be not in-

tended so to do, exclusively to the detriment of the trade of the United States.

It cannot be denied, that the articles of wheat, flour and lumber, which it is the principal object of the bill to divert from the direct to the indirect intercourse are those for which, so far as foreign powers are concerned, the British West Indies rely chiefly, if not entirely, upon the United States.

Proceeding upon these facts, the obvious policy and intention of the bill are to invite such produce from those of the United States in more immediate proximity with British northern possessions, without any idea, most certainly, that any European supply can go in that way. Such a measure is not the less offensive in effecting so serious and exclusive an operation by means of an equality merely nominal.

On any other supposition, it would be considered as affording fresh ground to lament that, though, for substantial considerations, the direct trade has been nominally restored, the desire of excluding the United States from the fair advantages of such trade was sufficient to induce a measure involving other nations in a common exclusion ; and that, too, before any estimation could be formed, from experience, of the effects upon British colonial interests of the arrangement so recently concluded, and now in a fair course of experiment.

The undersigned prays leave once more to repeat, that his urgency upon this subject is, comparatively, but little influenced by

the consideration of commercial advantage; to which, if he has referred in some detail, it has been more for the purpose of illustrating the effect of the bill than pertinaciously to dwell on the amount. He proceeds upon a thorough persuasion of the disappointment such a measure must produce in the minds of his Government, and of the people of the United States: and an unfeigned apprehension of the consequences of such disappointment and the mischievous effect must be produced by so early and unreasonable an attempt to take away, by indirect means, those advantages which have been so recently conceded to them.

In the same spirit, he may remark, that such a measure, coming in such a shape, and aiming at such purposes, following so hastily upon an arrangement by which both nations hoped to extinguish ancient jealousies, and to place their intercourse upon a foundation of mutual amity, meeting measures of voluntary relaxation on the part of the United States in their scale of duties on West India produce, must be too well calculated to revive the same system of countervailing and retaliatory legislation, which both Governments have heretofore deplored, and recently resolved to abrogate.

The undersigned must persuade himself, however, that the present bill has been framed without due attention to its real import and effect, rather than with a deliberate view of, in any manner, evading the terms and spirit of the arrangement recently con-

cluded. But under no circumstances can he doubt that he is yet in season to invite a revision of the bill, and that liberal and impartial examination of its provisions, in connexion with the whole subject, which will lead to its entire relinquishment.

The undersigned takes this occasion to offer to Viscount Palmerston the assurances of his highest respect and consideration.

LOUIS McLANE.

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*Mr McLane to Mr Van Buren.*

London, January 6th, 1831.

SIR: I received, but not in time for a reply, by the last packet, your despatch of the 27th November, stating the doubt which has arisen with our Government, whether, under the act of Parliament of 5th July, 1825, and the other British colonial regulations, 'An American vessel could be permitted to clear from the United States with a cargo destined for two or more British colonial ports.'

In the same despatch you state that, under your view of the subject, the following questions present themselves:

1. Whether a vessel of the United States clearing from a port of the United States for the British colonies, should be bound to clear for a particular port in the said colonies, and to proceed direct to the port of her destination, without touching at any intermediate place.

2. Whether a vessel of the United States landing a part of her cargo at a British colonial port, and proceeding with the re-

mainder to another British colonial port, shall be subjected to the payment of other duties than those accruing upon the goods landed at such port; and to the payment of the duty on the tonnage of the vessel at more than one of the several ports which she may enter in the course of the same voyage.

You further request that I 'will take an early opportunity to lay the subject informally and confidentially before the Earl of Aberdeen, and apprise the department, as speedily as possible, of his decision upon it.'

You will, I am sure, upon reflection, be satisfied, that no decision could be obtained from the Secretary of Foreign Affairs, were I to lay the subject before him informally and confidentially, that could be of any public utility. The construction of British commercial regulations properly appertains to the Board of Trade, and the Secretary of Foreign Affairs interferes only as the organ of communicating the decision of that board to the representatives of the foreign Government.

The effect of a confidential conference or communication upon the subject, might be, in other respects, prejudicial, and there are many reasons why, in the present posture of affairs, I have felt it safer to avoid any official application to that officer relative to this negotiation. Some of these may be inferred from the tenor of the letters which you will have received from me since the date of your despatch.

Entertaining no doubt, in my

own mind, of the meaning of the acts of 5th July, 1825, and of the existing colonial regulations, I preferred a conversation with the President of the Board of Trade, apparently for the purpose of explaining my own impressions, rather than with a direct view to an inquiry from my Government; and, I am happy to add, that those impressions were fully and entirely assented to and confirmed.

There is no doubt that an American vessel may clear from the United States, with a cargo destined for two or more British colonial ports, and that, clearing for one or more of those ports, she may, without proceeding directly to the port of her destination, touch at any intermediate port, whether British or Foreign. She may, moreover, discharge part of her cargo at such intermediate port, and there take in other cargo in lieu of it for importation into the United States, or any foreign port, excepting the British European ports, but not for importation into, i. e. to be landed in a British colony.

The privileges of passing from one British colonial port to the other, and of discharging a part of the cargo at one, and a part at another, and taking in a part or the whole of her return cargo at either, were allowed even under the act of 1822.

It ought not to escape you that the privilege of this act being confined to the United States only, and, consequently, to the direct intercourse between their ports and the British colonies, it might not have been lawful for



one of our vessels pursuing that trade, to touch at an intermediate *foreign* port.

Under this law, however, until the continuity of the voyage had been broken, little difficulty could have existed. But when the acts 'concerning navigation,' and 'to regulate the trade of the British possessions abroad,' of 5th July, 1825, opened the colonial trade to all nations upon the same footing, the right of an American vessel, on her voyage to the British colonies, to touch at an intermediate foreign port, followed as a matter of course, being nowhere prohibited.

Nor can there be any doubt that a vessel of the United States landing a part of her cargo at a British colonial port, may proceed with the remainder to another British colonial port without being subjected to the payment of other duties than those accruing upon the goods landed at each port, or to the payment on the tonnage of the vessel at more than one of the several ports which she may enter in the course of the same voyage. Such vessel may, moreover, take in any part of her return cargo at one or more of the colonial ports for importation, either into the United States, or into any foreign port, excepting British European ports; the only restriction upon her trade with the several colonial ports, being to the landing at one port of any produce or cargo laden at another.

This course of trade is always allowable; the principle of the British navigation and commercial system being to treat all the colonial ports as one, and the only

regulations to which the vessel is subjected being the payment of tonnage entry, if any such be chargeable, at the first port of entry; the duties on so much of her cargo as shall be actually discharged at any one port; and the necessity of reporting at each, the several parts and amounts of her cargo which may be intended for landing or for exportation.

The tonnage duties here mentioned, however, must be understood as relating, rather to such as may be imposed or authorized by the acts of Parliament for the regulation of the colonial intercourse, than to those local or port charges which, being in the nature of tolls, or exactions for dock, or other local improvements, make a part of the municipal regulations by the local legislatures. To these, however, both British and American vessels must be equally liable, and they will not be allowed, in any instance, to impair the privileges secured by the colonial legislation of the mother country, or to contravene such legislation.

It is believed that none such exist at present, and, indeed, I am not aware of any particular tonnage duty which is now chargeable. If, however, any such do exist, and an attempt should be made by the local officers, illegally, to exact those, of either character, from an American vessel, such particular case would become the proper subject of remonstrance here, and would be certainly decided according to the rules and principles to which I have adverted.

Taking the British law of navigation of the 5th July, 1825, and

the acts of the same date 'to regulate the trade of the British possessions abroad,' as now explained, as the basis, you will be enabled, without difficulty, by reference to *Hume's digest*, heretofore forwarded to the department, to trace, at once, all the objects and provisions of the British colonial regulations, which it may be important for the Government, or our merchants, to know in relation to the trade authorized by the arrangement recently concluded.

It is obvious, that the subject of Mr Rush's despatch of the 12th August, 1824, to which you have referred me, was no more than an inquiry, at the instance of the consul at Barbadoes, into the then existing colonial regulations; and that Mr Huskisson's interference, at that time, was merely to ascertain the opinion of the Board of Trade of the import of those regulations, and not to adopt any new provisions, or to make any alteration in those already in force.

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*Mr McLane to Mr Van Buren.*

London, March 14, 1831.

SIR: Your despatch, number 27, dated the 4th February, transmitting an official pamphlet, containing several protocols of the conferences between the American and British plenipotentiaries in the year 1818, relative to the West India trade, was received by me on the 7th instant.

This is the first opportunity I have had of examining this pamphlet, or the protocols which it contains. It is referred to in my original instructions, as form-

ing a part of the documents left at the legation by Mr Gallatin; but it was not to be found in the archives when I took charge of the legation. As early as the 29th of May, 1830, I officially informed the department of the want of this document, and of the necessity of my being furnished with it, if the Government expected me to press those points in our relations to which its contents particularly relate.

In answer to that communication, Mr Brent, in his letter of the 19th July last, informed me that the pamphlet in question could not be found, but that copies of so much of Mr Rush's communications to the department as related to the *navigation of the river St Lawrence*, would be made and forwarded.

Independent, however, of the particular terms of the British article annexed to the 11th protocol, my general knowledge of the subject, enabled me, in my letter to Lord Palmerston, to refer to the British act of the 8th May, 1818, offering a course of trade which was not accepted by the United States, from an apprehension that it designed to favor the circuitous in preference to the direct intercourse; and, to the subsequent acts of 1822 and 1825, which, not merely in the way of overture, but positively and totally disclaimed any advantage to the circuitous trade. If these positive enactments failed to illustrate the true principles of the previous colonial regulations of Great Britain — of the adjustment of 1825, and of the agreement recently concluded — an overture made

by the British plenipotentiaries in 1818, and rejected by our Government in the same year, could not have been more effectual. In fact, the alleged treatment of that overture was no slight impediment in the way of my late negotiation, and, by Mr Vezey Fitzgerald, in particular, was alluded to in terms of unequivocal disapprobation. The treatment which this proposition of the British plenipotentiaries received in 1818, and the circumstances under which our negotiations of that year terminated, stripped of most of its advantages, even as evidence of the terms to which Great Britain was, at that time, willing to accede; and, in my view, seemed to make it more proper to press the argument upon the positive enactments of the acts of 1822 and 1825, and the clear stipulations in the letter of Lord Aberdeen.

On the receipt of your last despatch, however, I invited an interview with Lord Palmerston, which he afforded me on the 9th instant, in which I fully explained to him the bearing and import of the protocols contained in the pamphlet, in connexion with the whole subject; and I also informed him of the light in which this measure was viewed by my Government, and of the approbation by the President of the remonstrance I had submitted. I took this step in pursuance of your instructions, rather than from a hope of producing much effect in the present situation of the subject.

The present bill is less unfavorable than that proposed by Mr

Herries, in respect to the article of flour, on which it leaves the duty, in the direct trade, as imposed by the act of 1825; and of white or yellow pine timber, on which it proposes a duty of twentyeight shillings per thousand feet of inch thick, until the first of January, 1834, and of twenty-six shillings until the first of January, 1836, at which period the duty will return to the rate specified in the act of 1825. It increases it, however, even beyond that proposed by Mr Herries, on staves and headings, until the first of January, 1836, when it will be reduced to the rate of 1825. On all other articles, excepting bread and biscuit, flour or meal not of wheat, peas, beans, rye, oats, barley, Indian corn, rice, and live stock, there is no change from the duty of 1825; and the importation all these, in the direct trade to the West Indies, is permitted duty free, but then no duty whatsoever is payable on the importation of American produce into the northern colonies. In this respect alone, is the measure liable to any material objection, as intended to encourage the indirect trade through the colonies.

On the growers of produce in the United States, this measure is calculated to confer greater advantages than they have heretofore enjoyed; enabling them to supply their productions not merely for a part of the consumption of the northern colonies, but for the whole export trade of those colonies to England and elsewhere.

In respect to lumber, even both the producer and the shipper en-



joy superior advantages to those afforded them by the restricted intercourse ; while of flour, and of all articles admitted duty free, or at the rate prescribed by the act of 1825, our shipping must have the exclusive carrying. As the subject may now be considered as having passed beyond my power, if not as absolutely disposed of, it becomes proper for me to inform you, generally, of what has occurred since the date of my despatch number 28.

I determined to bring the subject to the immediate attention of Lord Grey, who, it is but just to say, has always professed the best disposition towards our country, and, in this particular instance, has appeared inclined to meet our expectations as far as the present situation of the ministry would permit. Accordingly, on the 15th February, I obtained an interview with Lord Grey, at which Lord Oakland, the President, and Mr Poulett Thompson, the Vice President of the Board of Trade, were present. On this occasion, the whole subject was fully discussed and explained on both sides, and I distinctly required that the bill should be conformed to the terms and spirit of the agreement concluded with Lord Aberdeen.

In reply, it was repeated that the letter of Lord Aberdeen could not be considered in the light of an agreement, at least in the nature of convention or treaty : that this Government had uniformly insisted upon legislative regulation for this trade instead of convention ; the former admitting more readily of occa-

sional modifications : that the act of 1825, itself, was but a legislative measure, liable to be repealed whenever the interests of Great Britain or her colonies made it desirable ; and that an assent to a renewal of the intercourse, according to that act, could not have greater force, especially when coupled, as it was, with the reservation in respect to the schedule of duties annexed to the act of 1825. The suspension of the direct intercourse was again attributed to our remissness, and hence it was inferred that we could not reasonably object to a temporary protection of those interests which had been thereby fostered. It was further observed that all the measures of Great Britain, subsequently to the act of 1825, had looked to the system of free ports in the northern colonies ; and that as, in this respect, the United States would be placed upon the same footing with all other nations, we could have no just grounds of complaint. That, independently of this principle, the change in the rate of duty from that prescribed by the act of 1825, was confined to two commodities, and that for a limited period ; and that, with respect to a great number of articles, forming of themselves a considerable trade, the duty had been taken off altogether.

To these observations, the general topics and remarks contained in my letter to Lord Palmerston were opposed by me, and urged in a manner most likely, in my judgment, to produce effect. In addition to these, I suggested other views more appropriate to

the form of the present discussion. I stated that all the considerations by which it was now attempted to sustain the proposed measure, might have been urged, with more propriety, before the letter of Lord Aberdeen; and that if they were then insufficient to prevent the agreement on the part of Great Britain to restore the direct trade, they could not be sufficient now to authorize its violation. The letter of Lord Aberdeen, I observed, must be received as meaning something beneficial; and the assent to renew the intercourse, could mean only that intercourse which had been interdicted, namely, the direct trade, as regulated by the act of 1825. That the letter of Lord Aberdeen was not an agreement merely, but an agreement to restore the direct trade, was proved by the fact of the issuing the order in council of the 5th of November last, actually restoring the trade according to the act of 1825.

Consequent upon these positions, I asked, even admitting the mere power of Parliament to repeal the law of 1825, whether Great Britain could, consistently with good faith, arbitrarily rescind, within a month, or a year, the order in council of the 5th November last, and re-enact that of 1826? This question could not be answered in the affirmative; and it was frankly admitted that such a course would be improper. I, therefore, agreed that it would be equally a breach of faith, and a violation of that agreement, to accomplish the same end by covert and indirect means.

The act of Parliament imposing a less rate of duty on American cotton, when imported through the British colonies, than when imported directly from the United States, and Mr Barbour's correspondence with Lord Aberdeen upon that subject, (of which I have heretofore informed you) were referred to, and were supposed to justify the principle of the present measure; as, in that case, the principle was reconcilable with our commercial convention, or, at least, was acquiesced in by the late administration of our Government.

Independently, however, of the material fact, that the colonial trade, both direct and indirect, was expressly excluded from the convention, the discrimination as to cotton, and the basis on which it was attempted to be justified, afforded no apology for the present measure; but on the contrary, demonstrated its impropriety.

If that case could not be distinguished from the present, it would itself be a violation of existing treaties, and ought for that reason, to inculcate greater caution, if not more liberality, in future. The discrimination in the cotton duty was justified, however, upon the ground that it did not propose to give any preference to the indirect trade, but merely to adopt the difference to the additional cost of the circuitous route, and the landing and re-lading of the cargo in a colonial port, and thus placing both trades upon an equality.

That, giving the utmost latitude to the reservation in Lord Aberdeen's letter, and the most

liberal consideration to the interests of the northern provinces, this precedent would authorize them to ask no more than to be placed in fair and equal competition with the direct intercourse; which, if it ultimately diverted the trade from the indirect channels, would do so by gradual means, thereby attaining the object, and in the manner professed by Great Britain.

More than this would not merely give a preference to the indirect trade, but would continue a monopoly which they could neither demand, nor Great Britain concede, without a breach of her agreement.

That the present measure went beyond these limits, would not be denied; and no equality in any part of the trade could be predicated of its provisions. Although in this interview Lord Grey expressed no positive opinion, he evidently inclined to favor the measure proposed by the Board of Trade, and we separated with an assurance from him that he would give the subject his mature consideration.

It appears to me, therefore, that no further interference on my part would be either useful or proper, and I shall accordingly abstain from making it, unless something, not at present foreseen by me, shall call for it.

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*Mr McLane to Mr Van Buren.*

London, April 22, 1831.

I send, herewith, the new bill concerning the colonial trade, which has passed both Houses of Parliament, and now only wants the approval of the King to become a law. This I am informed, will be given in a few days, under a commission issuing for this, with various other bills which have passed during the present session.

This bill will be found to correspond, in all respects, with the statement in my despatch of the 14th March, number 33, in which I informed you of what had been previously done, and that my negotiation on this subject, was finally closed.

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## II.—FOREIGN.

## GREAT BRITAIN.

## IMPERIAL PARLIAMENT, 1831.

THE king opened the Parliament in person on the 6th of December, with the following royal speech:

‘My Lords and Gentlemen,

‘I have called you together, that you may resume, without further delay, the important duties on which the circumstances of the times require your immediate attention; and I sincerely regret the inconvenience which I am well aware you must experience from so early a renewal of your labors, after the short interval of repose allowed you from the fatigues of last session.

I feel it my duty in the first place to recommend to your most careful consideration the measures which will be proposed to you for a reform in the Commons House of Parliament. A speedy and satisfactory settlement of this question becomes daily of more pressing importance to the security of the State, and to the contentment and welfare of my people.

I deeply lament the distress which still prevails in many parts of my dominions, and for which

the preservation of the peace, both at home and abroad, will under the blessings of Divine Providence, afford the best and most effectual remedy. I feel assured of your disposition to adopt any practicable measures which you always find me ready and anxious to assist, both for removing the causes and mitigating the effects of the wants of employment, which the embarrassments of commerce, and the consequent interruption of the pursuits of industry have occasioned.

It is with great concern that I have observed the existence of a disease at Sunderland, similar in its appearance and character to that which has existed in many parts of Europe. Whether it is indigenous, or has been imported from abroad, is a question involved in much uncertainty, but its progress has neither been so extensive nor so fatal as on the continent. It is not, however, the less necessary to use every precaution against the further extension of this malady; and the measures recommended by those who have had the best opportunities of observing it, as most

effective for the purpose, have been adopted.

In parts of Ireland a systematic opposition has been made to the payment of tithes, attended in some instances with afflicting results, and it will be one of your first duties to inquire whether it may not be possible to effect improvements in the laws respecting this subject, which may afford the necessary protection to the Established Church, and at the same time remove the present cause of complaint. But on this and every other question affecting Ireland, it is above all things necessary to look to the best means of securing internal peace and order, which alone seem wanting to raise a country blessed by Providence with so many natural advantages, to a state of the greatest prosperity.

The conduct of the Portuguese Government, and the repeated injuries to which my subjects have been exposed, have prevented a renewal of the diplomatic relation with that kingdom. The state of a country so long united with this by the ties of a most intimate alliance, must necessarily be to me an object of the deepest interest, and the return to Europe of the elder branch of the illustrious House of Braganza, and the dangers of a disputed succession, will require my most vigilant attention to events, by which not only the safety of Portugal, but the general interests of Europe, may be affected.

The arrangements which I announced to you at the close of last Session for the separation of the States of Holland and Belgi-

um, has been followed by a treaty between the five Powers and the King of the Belgians, which I have directed to be laid before you as soon the ratification shall have been exchanged.

A similar treaty has not yet been agreed to by the King of the Netherlands; but I trust the period is not distant when that Sovereign will see the necessity of acceding to an agreement in which the Plenipotentiaries of the five Powers have unanimously concurred, and which has been framed with the utmost careful and impartial attention to all the interests concerned.

I have the satisfaction to inform you, that I have concluded with the King of the French a convention, which I directed to be laid before you; the object of which is the effectual suppression of the African Slave Trade. This convention, having for its basis the concession of reciprocal rights to be mutually exercised in specified latitudes and places, will, I trust, enable the two naval forces of the two countries to accomplish by their combined efforts, an object which is felt by both to be so important to the interests of humanity.

Regarding the state of Europe generally, the friendly assurances which I receive from Foreign Powers, and the union which subsists between me and my allies, inspire me with a confident hope that peace will not be interrupted.

Gentlemen of the House of Commons:

I have directed the estimates, for the ensuing year to be pre-

pared, and they will in due time be laid before you.

I will take care that they shall be formed with the strictest attention to economy, and I trust to your wisdom and patriotism to make such provisions as may be required for the public service.

My Lords and Gentlemen :

The scenes of violence and outrage which have occurred in the city of Bristol, and in some other places, have caused me the deepest affliction. The authority of the laws must be vindicated by the punishment of offences which have produced so extensive a destruction of property and so melancholy a loss of life. I think it right to direct your attention to the best means of preserving the Municipal Police of the kingdom in the more effectual protection of the public peace against the occurrence of similar commotions.

Sincerely attached to our free constitution, I never can sanction any interference with the legitimate exercise of these rights which secure to my people the privileges of discussing and making known their grievances ; but in respecting these rights, it is also my duty to prevent combinations, under whatever pretence, which in their form and character are incompatible with all regular Government, and are equally opposed to the spirit and to the provisions of the law ; and I know that I shall not appeal in vain to my faithful subjects to second my determined resolution to repress all illegal proceedings by which the

peace and security of my dominions may be endangered.'

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*Proclamation for the Suppression  
of Political Unions.*

From the London Gazette, Nov. 22.

WILLIAM R. Whereas certain of our subjects, in different parts of our kingdom have recently promulgated plans for voluntary associations, under the denomination of Political Unions, to be composed of separate bodies, with various divisions and subdivisions, under leaders, with a gradation of ranks and authority, and distinguished by certain badges, and subject to the general control and direction of a superior committee or council, for which associations no warrant has been given by us, or by any appointed by us, on that behalf. And whereas according to the plans so promulgated as aforesaid, a power appears to us to be assumed of acting independently of the civil magistrates, to whose requisitions, calling upon them to be enrolled as constables, the individuals composing such associations are bound in common with the rest of our subjects, to yield obedience. And whereas such associations, constituted and appointed, under such separate direction and command, are obviously incompatible with the faithful performance of this duty, at variance with the acknowledged principles of the constitution, and subversive of the authority with which we are invested, as the Supreme Head of the State, for the protection of the public peace. And whereas, we are determined to maintain,



against all encroachments on our Royal power, those just prerogatives of the crown, which have been given to us for the preservation of the peace and order of society, and for the general advantage and security of our loyal subjects; we have, therefore, thought it our bounden duty, with and by the advice of our Privy Council, to issue this our Royal Proclamation, declaring all such Associations, so constituted and apprised as aforesaid, to be unconstitutional and illegal, and earn-

estly warning and enjoining all our subjects to abstain from entering into such unauthorized combinations, whereby they may draw upon themselves the penalties attending a violation of the laws, and the peace and security of our dominions may be endangered.

Given at our Court at St James's this 21st day of November, 1831, and in the second year of our reign. 'GOD SAVE THE KING.'

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#### LEGISLATURE OF THE BAHAMAS.

Nassau, June 4, 1831.

On Tuesday last the Governor opened the present session of the Legislature, with the following Speech:—

'Gentlemen of the Council, Mr Speaker and Gentlemen of the House of Assembly.

'His Majesty in council having been pleased, on the 22d of November last to disallow the Jury act passed by this Legislature in the month of December, 1827, I have felt it my duty to call you together, in order that you may have another opportunity of preparing and passing another act, for the regulation of our juries in this colony; and in which new act the clauses humbly pointed out in the report of the lords of the committee of council for trade and plantations to his Majesty, *as objectionable, must be left out.*

2. The Lords of the Committee of Council for trade and plantations, state in their report to his Majesty of the 12th of November, 1830, that the Jury act revives an act passed in 1806, by which Roman Catholics and free people of color were disabled from serving on grand petty juries, and, adds, that it does not seem fit that distinctions of this nature should be established or recognised by law. A colonial act to which I gave my assent, on the 14th of January, 1830, has declared, that the Statute of the United Kingdom of Great Britain and Ireland, entitled an act for the relief of his Majesty's Roman Catholic subjects, shall be in force within these islands. There remains the enactment relative to white people alone being competent to serve as jurors, for you to erase, from the July act, *if you wish it to receive the Royal approbation.*

3. It is right that I should explain to you that, (the colonial law being disallowed), excepting you prepare another act to which I can give my assent, we must necessarily have recourse to the common law of England to regulate our proceedings with respect to our juries. The common law, which obtains in all cases not specially provided for by statute, acknowledges no difference in the color of a man's skin as a reason for debarring him from the free exercise of his civil rights. The free people of color in these Islands are consequently, (*cæteris paribus*) as eligible by law, at this moment, to sit both on grand and petty juries, as any other inhabitant. With a view to the exclusion of ignorant or incapable people, you may regulate the amount of the qualification by a colonial act for either jury; the law, however, must be impartial, and equally affect all jurors, without any reference to color, to none other can I give my assent.

Mr Speaker and Gentlemen of the House of Assembly :

With a view of preventing you from the trouble of preparing, and myself from the pain of refusing my assent to any act, after it may have passed your House, I think it right to inform you that I am expressly prohibited by my orders and instructions under the Royal sign Manual, from permitting any law to be re-enacted which has been once disallowed, while it contains the objectionable clause or enactment, on account of which the Royal assent was withheld. It rests therefore entirely with you, Gentlemen, to consider and to determine whether you will prepare and pass such a bill, for the regulation of your juries, *as I have described*, governed in the matter of your grand and petty juries by the common law of England.

J. CARMICHAEL SMYTH.

Council Chamber, 31st May, 1831.

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#### LOWER CANADA.

*Copy of a despatch received from Viscount Goderich, his Majesty's Secretary for the Colonies, by Lord Aylmer, and by him communicated to the House of Assembly of Lower Canada, on the 16th ult.*

Downing-street, 7th July, 1831.

My Lord, I have received, and have laid before the King, your Lordship's despatches of the 5th, 6th and 7th April last, Nos 24, 25 and 26.

Your Lordship's assurance of the favorable change in the general disposition of the House of Assembly of Lower Canada towards the close of their last session, and your Report of the warm attachment borne by the people at large to his Majesty's person and Government, and to the constitution under which they live, have been received by his Majesty with lively satisfaction.

The King has been also gra-

ciously pleased to express his approbation of the efforts made by your Lordship to ascertain with precision the full extent of the grievances of which the Assembly consider themselves entitled to complain; and assuming, in concurrence with your Lordship, that the address of the Assembly contains a full development of those grievances, the exposition which is to be there found to the views of that body, justifies the satisfactory inference that there remains scarcely any question upon which the wishes of that branch of the Legislature are at variance with the policy which his Majesty has been advised to pursue, and I therefore gladly anticipate the speedy and effectual termination of those differences which have heretofore so much embarrassed the operations of the local government.

No office can be more grateful to the King than that of yielding to the reasonable desires of the Representative body of Lower Canada, and while his Majesty's servants have the satisfaction of feeling, that upon some of the most important topics referred to in the address of the Assembly, its wishes have been anticipated, and they trust that the instructions which I am now about to convey to you will still further evince their earnest desire to combine with the due and lawful exercises of the constitutional authority of the crown, an anxious solicitude for the well being of all classes of his faithful subjects in the province.

I proceed to notice the various topics embraced in the address of the Assembly to the King

I shall observe the order which they have followed, and with a view to perspicuity, I shall preface each successive instruction which I have his Majesty's commands to convey to your Lordship, by the quotation of the statements made upon the same topic by the Assembly themselves.

Firstly — It is represented that the progress which has been made in the education of the people of this province, under the encouragement afforded by the recent acts of the Legislature, has been greatly impeded by the diversion of the revenues of the Jesuits' estates originally destined for this purpose.

His Majesty's Government do not deny that the Jesuits' estates were on the dissolution of that order, appropriated to the education of the people, and I readily admit that the revenue which may result from the property should be regarded as inviolably and exclusively applicable to that subject.

It is to be regretted undoubtedly that any part of those funds were ever applied to any other purpose, but although in former times your Lordship's predecessors may have had to contend with difficulties, which caused, and excused, that mode of appropriation, I do not feel myself now called upon to enter into any consideration of that part of the subject.

If, however, I may rely on the returns which have been made to this department, the rents of the Jesuits' estates have, during the last few years, been devoted exclusively to the purpose of education, and my despatch dated the



24th December last, marked 'separate,' sufficiently indicates that his Majesty's Ministers had resolved upon a strict adherence to that principle several months before the present address was adopted.

The only practical question which remains for consideration is, whether the appropriation of these funds for the purpose of education should be directed by his Majesty, or by the Provincial Legislature.

The King cheerfully, and without reserve, confides that duty to the Legislature in the full persuasion that they will make such a selection among the different plans for this purpose, which may be presented to their notice, as may most effectually advance the interests of religion and sound learning among his subjects; and I cannot doubt that the Assembly will see the justice of continuing to maintain, under the new distribution of these funds, those scholastic establishments to which they are now applied.

I understand that certain buildings in the Jesuits' estates, which were formerly used for collegiate purposes, have since been uniformly employed as a barrack for the King's troops. It would obviously be highly inconvenient to attempt any immediate change in this respect, and I am convinced that the Assembly would equally regret any measure which might diminish the comfort or endanger the health of the King's forces. If, however, the Assembly should be disposed to provide adequate barracks, so as permanently to secure those important objects, his Majesty will be prepared (upon the completion of such an

arrangement in a manner satisfactory to your Lordship) to acquiesce in the appropriation of the buildings in the question to the same purposes as those to which the general funds of the Jesuits' estates are now about to be restored.

I should fear that ill founded expectations may have been indulged respecting the value and productiveness of the Jesuits' estates. In this, as in most other cases, concealment appears to have been followed by exaggerations as its natural consequence. Had the application of the Assembly, for an account of the proceeds of these estates been granted, much misapprehension would probably have been dispelled. My regret from the effect of your decision to withhold these accounts, does not, however, render me insensible to the propriety and apparent weight of the motives by which your judgment was guided; disavowing, however, every wish for concealment, I am to instruct your lordship to lay these accounts before the Assembly in the most complete detail at the commencement of their next session, and to supply the House with any further explanatory statements which they require respecting them.

It appearing that the sum of £2,154 15s. 4½d. has been recovered from the late Mr Caldwell's property in respect of the claims of the crown against him on account of the Jesuits' estates, your lordship will cause that sum to be placed at the disposal of the Legislature for general purposes. The sum of £1,280 3s.

4d. which was also recovered on account of the same property, must also be placed at the disposal of the legislature, but should, with reference to the principles already noticed, be considered as applicable to the purpose of education exclusively.

Secondly — The House of Assembly represent that the progress of education has been impeded by the withholding the grants of land promised for schools in the year 1804.

On referring to the speech delivered in that year by the Governor to the Houses as the provincial legislature, I find that such an engagement as the address refers to was actually made. It of course, therefore, is binding on the Crown and must now be carried into effect, unless there be any circumstances of which I am not apprized, which may have cancelled the obligation contracted in 1801, which may have rendered the fulfilment of it at the present time impracticable. If any such circumstances really exist, your lordship will report them to me immediately, in order that the fit course to be taken may be further considered.

Thirdly — The objection by the Legislative Council of various Bills in favor of education, is noticed as the last of the impediments to the progress of education.

Upon this subject it is obvious that his Majesty's Government have no power of exercising any control, and that they could not interfere with the free exercise of the discretion of the Legislative Council, without the violation of the most undoubted maxims of

the constitution. How far that body may have actually counteracted the wishes of the Assembly on this subject, I am not very exactly informed, nor would it become me to express an opinion on the wisdom or propriety of any decision which they may have formed of that nature. The assembly, however, may be assured that whatever legitimate influence his Majesty's Government can exercise will always be employed to promote in every direction all measures which may have for their object, the religious, moral, or literary instruction of the people of Lower Canada.

Fourthly — The address proceeds to state that the management of the waste lands of the crown has been vicious and improvident, and still impedes the settlement of those lands.

This subject has engaged and still occupies my most anxious attention, and I propose to address your lordship upon it, at length, in a separate despatch. The considerations connected with the settlement of waste lands are too numerous and extensive to be conveniently embodied in a despatch embracing so many other objects of discussion.

Fifthly — The exercise of Parliament in its power of regulating the trade of the Province is said to have occasioned injurious uncertainty in mercantile speculations and prejudicial fluctuations in the value of real estate, and of the different branches of industry connected with trade.

It is gratifying to find that this complaint is connected with a frank acknowledgment that the

power in question has been beneficially exercised on several occasions, for the prosperity of Lower Canada. It is, I fear, an unavoidable consequence of the connection which happily subsists between the two countries, that Parliament should occasionally require of the commercial body of Lower Canada some mutual sacrifices for the general good of the empire at large. I therefore shall not attempt to deny that the changes in the commercial policy of this kingdom during the last few years may have been productive of occasional inconvenience and loss to that body, since scarcely any particular interest can be mentioned in Great Britain of which some sacrifice has not been required during the same period. The most which can be effected by legislation, on such a subject as this, is a steady, though gradual advance, towards those great objects which an enlightened system of commercial regulations contemplates. The relaxation of restrictions on the trade of the British Colonies, and the development of their resources have been kept steadfastly in view amidst all the alterations to which the address refers, and I confidently rely on the candor of the House of Assembly to admit that, upon the whole, no inconsiderable advance towards those great ends has been made. They may rest assured that the same principles will be steadily borne in mind by his Majesty's Government in every modification of the existing law which they may at any future time have occasion to recommend to Parliament.

Sixthly — The Assembly in their address proceed to state that the inhabitants of the different towns, parishes, townships, extra parochial places and counties of the Province, suffer from the want of sufficient legal power for regulating and managing their local concerns.

I am happy in the opportunity which at present presents itself of demonstrating the desire of his Majesty's Government to co-operate with the local Legislature in the redress of every grievance of this nature. The three Bills which your Lordship reserved for the signification of his Majesty's pleasure in the last session of the assembly, for establishing the parochial divisions of the Province, and for the incorporation of the cities of Quebec and Montreal, will be confirmed, and finally enacted by his Majesty in council with the least possible delay, and I expect to be able very shortly to transmit to your Lordship the necessary orders, in council for that purpose.

Seventhly — I proceed to the next subject of complaint, which is, that uncertainty and confusion have been introduced into the law for the security and regulation of property, by the intermixture of different codes of Laws and rules of proceeding in the courts of justice.

The intermixture to which the address refers, so far as I am aware, arises from the English criminal code having been maintained by the British Statute of 1774, and from the various acts of Parliament which have introduced into the Province the soc-



cage tenure, and subjected all lands so holden to the English rules of alienation and descent.

As a mere matter of fact there can be no doubt that the infusion of these parts of the law of England with the provincial code, was dictated by the most sincere wish to promote the general welfare of the people of Lower Canada. This was especially the case with regard to the criminal law, and is sufficiently apparent from the language of the 11th section of the Statute 14th Geo. III. chap. 83, with regard to the advantage to be anticipated from the substitution of tenure in soccage for feudal services. I may remark that Parliament could scarcely be otherwise than sincerely convinced of the benefit of that measure, since the maxims on which they proceeded, are in accordance with the conclusions of almost all the theoretical statesmen. I am not indeed anxious to know that these views were just, but I think it not immaterial to have it pointed out that the errors, if any, which they involve, can be attributed only to a sincere zeal for the good of those whom the enactments in question more immediately effect.

I fully admit, however, that this is a subject of local and internal policy, upon which far greater weight is due to the deliberate judgment of enlightened men in the province than to any external authority whatever. Your Lordship will announce to the Council and Assembly, His Majesty's entire disposition to concur with them in any measure which they may think best adapted for ensuring a calm and com-

prehensive survey of these subjects in all their bearings. It will then remain with the two Houses to provide such laws as may be necessary to render the Provincial code more uniform and better adapted to the actual condition of Society in Lower Canada. To any laws prepared for that purpose and calculated to advance it, his Majesty's assent will be given with the utmost satisfaction. It is possible that a work of this nature would be best executed by commissioners to be especially designated for that purpose. Should such be your Lordship's opinion, you will suggest that mode of proceeding to both Houses of the Legislature, who, I am convinced would willingly incur whatever expenses may be inseparable from such an undertaking, unless they should themselves be able to originate any plan of inquiry and proceeding at once equally effective and economical.

Eighthly — The administration of justice is said to have become inefficient and unnecessarily expensive.

As the provincial tribunals derive their present constitution from local Statutes, and not from any exercise of his Majesty's prerogative, it is not within the power of the king to improve the mode of administering the law, or to diminish the cost of litigation. Your Lordship will, however, assure the House of Assembly that his majesty is not only ready but desirous to co-operate with them in the improvements of the judicial system, which the wisdom and experience of the two Houses may suggest. Your Lordship will immediately

assent to any bills which may be passed for that purpose, excepting in the highly improbable event of their being found open to some apparently conclusive objection. Even in that case, however, you will reserve any bills for improving the administration of the law for the signification of his Majesty's pleasure, instead of immediately rejecting them.

Ninthly — The address then states that the confusion and uncertainty of which the House complains has been greatly increased by enactments affecting real property in the colony, made in the Parliament of the United Kingdom, since the establishment of the provincial Legislature, without those interested having even had an opportunity of being heard; and particularly by a recent decision on one of the said enactments in the provincial court of appeals.

His majesty's government can have no controversy with the House of Assembly upon this subject; the House cannot state in stronger terms than they are disposed to acknowledge, the fitness of leaving to the Legislature of Lower Canada, exclusively, the enactment of every law which may be required respecting real property within that province.

It cannot be denied, that at a former period, a different opinion was entertained by the British Government, and that the Statute Book of this kingdom contains various regulations on the subject of lands in Lower Canada, which might perhaps have been more conveniently enacted in the province itself. I apprehend, however, that this interference of Parliament was never invoked

except in the pressure of some supposed necessity; that there never was a period in which such acts were introduced by the ministers of the crown without reluctance.

To a certain extent the Statute 1, William IV, cap, which was passed at the instance of his Majesty's Government in the last Session of Parliament, has anticipated the complaint to which I am now referring, and has prevented its recurrence by authorizing the legislature to regulate whatever relates to the incidents of soccage tenure in the province, without reference to any real or supposed repugnancy of any such regulation to the law of England. If there is any other part of the British Statute law bearing upon this topic to which the council and assembly shall object, his Majesty's government will be prepared to recommend to Parliament that it should be repealed.

Tenthly — It is stated that several Judges in the courts in the province have long been engaged in, and have even taken a public part in the political affairs and differences of the province, at the same time holding offices at pleasure, and situations incompatible with the due discharge of their judicial functions.

Under this head again, it is very gratifying to the ministers of the crown to find that they had in a great measure obviated by anticipation the complaint of the House of Assembly. In the despatch which I addressed to your lordship on the 8th February, No. 22, every arrangement was made which could either be suggested or carried into effect by his Majesty's authority, for re-

moving the Judges of the province from all connection with its public affairs, and from rendering them independent, at once of the authority of the crown, and the control of the other branches of the Legislature, thus placing them exactly in the same position as that of the Judges of the supreme courts at Westminster.

The judges themselves have, it appears, with laudable promptitude, concurred in giving effect to these recommendations, by discontinuing their attendance at the Executive Council. Nothing, therefore, in fact, remains for terminating all discussions upon this subject, but that the House of Assembly should make such a permanent provision of the Judges, as, without exceeding a just remuneration, may be adequate to their independent maintenance in that rank of life which belongs to the dignity of their station.

I am not aware that any Judge in Lower Canada holds any office, excepting that of the Executive Councillor, during the pleasure of the crown, or which is in any respect incompatible with the due discharge of his official functions. If any such case exists, your lordship will have the goodness immediately to report to me all the circumstances by which it may be attended, in order that the necessary instructions on the subject may be given. In the mean time, I may state, without reserve, that no Judge can be permitted to retain any office corresponding with the description thus given by the House of Assembly, in combination with that independent position, on the bench to which I have referred.

Eleventhly — The address proceeds to state, that during a long series of years, executive and judiciary offices have been bestowed almost exclusively upon one class of subjects in the Province, and especially upon those the least connected by property or otherwise with its permanent inhabitants, or who have shown themselves the most averse to the rights, liberties and interests of the people. It is added that several of these persons avail themselves of the means afforded by their situations, to prevent the constitutional and harmonious co-operation of the Government and the House of Assembly, and to excite ill feeling and discord between them, while they are remiss in their different situations to forward the public business.

I quote thus largely the language of the address, because I am desirous to meet every part of it in the most direct manner, as well as in the most conciliatory spirit. It is not from any want of that spirit that I recommend you to suggest for the consideration of the House of Assembly, how far it is possible that His Majesty should clearly understand or effectually redress a grievance which is brought under his notice, in terms thus definite. If any public officers can be named, who are guilty of such an abuse of their powers, and of such remissness in their duties as are implied in the preceding quotation, His Majesty would not be slow to vindicate the public interests, by removing any such from service. If it can be shown that the patronage of the crown has been exercised upon any narrow and



exclusive maxim, they cannot be too entirely disavowed and abandoned, especially if it be true, that the permanent inhabitants of the colony do not enjoy a full participation in all public employments. The House of Assembly may be assured, that his Majesty can have no desire that any such invidious distinctions should be systematically maintained. Beyond this general statement it is not in my power to advance. I am entirely ignorant of the specific cases to which the general expressions of the Assembly point. I can only state, that since his Majesty was pleased to entrust to myself the Seals of the Department, no opportunity has occurred for exercising the patronage of the crown in Lower Canada, to which it is possible that the Assembly can refer; nor have any inquiries brought to light any particular case of a remote date to which their language would appear to be applicable.

Twelfthly — The next subject of complaint is developed in the following words: — That there exists no sufficient responsibility on the part of the persons holding these important situations, nor any adequate accountability among those of them entrusted with public money, the consequence of which has been the misapplication of large sums of public money, and of the money of individuals, by defaulters, with whom deposits were made under legal authority, hitherto without reimbursement or redress having been obtained notwithstanding the humble representations of your petitioners.

It would be impossible without a violation of truth, to deny, that at a period not very remote, heavy losses were sustained both by the public and by individuals from the want of proper securities having been taken by public accountants, and still more from the want of a proper system of passing and auditing these accounts. I find however, that in his despatch of the 29th September, 1828, Sir George Murray adverted to this subject in terms to which I find it difficult to make any useful addition. His words are as follows: — ‘The complaints which have reached this office respecting the inadequate security given by the Receiver General and the Sheriffs for the due application of public money in their hands have not escaped the more serious attention of the Ministers of the crown. The most effectual security against abuses of this nature would be to prevent the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to some competent authority at short intervals, and immediately to pay over the ascertained balance. The truth of having punctually performed this duty should be made the indispensable condition of receiving their salaries, and of their continuance in office.’

In the country of New South Wales a regulation of this nature has been established under his Majesty’s instructions to the Governor of that settlement, and it has been productive of great public convenience. If a similar practice were introduced in Low-

er Canada for the regulation of the office of Receiver General, and for that of Sheriff, the only apparent difficulty would be to find a safe place of deposit for their balances. I am, however, authorized to state, that the Lords Commissioners of his Majesty's Treasury will hold themselves responsible to the Province for any sum which the Receiver General or Sheriff may pay over to the Commissary General. Your Excellency therefore, will propose to the Legislative Council and Assembly the enactment of a law binding these officers to render account of the receipts at short intervals, and to pay over the balances in their hands to the Commissary General, upon condition, that that officer shall be bound on demand to deliver bills on His Majesty's Treasury for the amount of his receipts. I trust that in this proposal the Legislature will find a proof of the earnest desire of His Majesty's Government to provide, as far as may be practicable, an effectual remedy for every case of real grievance.

If the preceding instructions have proved inadequate to the redress of the inconvenience to which they refer, I can assure your lordship of the cordial concurrence of His Majesty's Government in any more effective measures which may be recommended for the purpose either by yourself, or by either Houses of the Provincial Legislature.

The losses which the Province sustained by the default of the late Mr Caldwell is a subject which His Majesty's Government

contemplate with the deepest regret — a feeling enhanced by the painful conviction of their inability to afford to the Provincial Revenue, any adequate compensation for so serious an injury. What is in their power they have gladly done by the instruction conveyed to your Lordship in the early part of this despatch, to place at the disposal of the Legislature for general purposes the sum of £7,154 15s 4½d recovered from Mr Caldwell's property. The Assembly will, I trust, accept this as a proof of the earnest desire of His Majesty's Government to consult to the utmost of their ability the pecuniary interests of the Province.

Thirteenthly — The address proceeds to state 'the evils of this state of things have been greatly aggravated by enactments made in the Parliament of the United Kingdom without even the knowledge of the people of this colony, which enactments have rendered temporary duties imposed by the Provincial Legislature permanent, leaving in the hands of public officers over whom the Assembly has no effectual control, large sums of money arising within this Province, which are applied by persons subject to no sufficient accountability.

I understand this complaint to refer to the 21st clause of the stat. 3, George IV, cap. 129. The duties mentioned in that enactment are continued until some act for repealing or altering them shall be passed by the Legislative Council and Assembly of Lower Canada; and until a copy of any such new act shall have

been transmitted to the Governor of Upper Canada, and shall have been laid before both Houses of Parliament and assented to by his Majesty. The motive for this enactment is explained in the preamble to have been the necessity of obviating the evils experienced in the Upper Province from the exercise of an exclusive control by the Legislature of Lower Canada, over Imports and Exports at the Port of Quebec. I acknowledge without reserve, that nothing but the necessity of mediating between the two Provinces could have justified such an interference by Parliament; and that if any adequate security can be devised against the recurrence of similar difficulties, the enactment ought to be repealed. The peculiar geographical position of Upper Canada, enjoying no access to the sea, except through a Province wholly independent of itself on the one hand, or through a foreign state on the other, was supposed in the year 1822 to have created the necessity for enacting so peculiar a law for its protection. I should be much gratified to learn that no such necessity exists at present or can be reasonably anticipated hereafter; for upon sufficient evidence of that fact, His Majesty's Government would at once recommend to Parliament the repeal of that part of the statute to which the address of the House of Assembly refers. The Ministers of the Crown would even be satisfied to propose to Parliament the result of the enactment in question, upon proof that the Legislature of the Upper Province deem such

protection superfluous. Perhaps it may be found practicable to arrange this matter by communications between the Legislatures of the two Provinces.

The Ministers of the Crown are prepared to co-operate to the fullest extent in any measure which the two Legislatures shall concur in recommending for the amendment or repeal of the Statute, 3, George IV, cap. 119, sect. 28.

Fourteenthly — The selection of the Legislative Councillors, and the constitution of that body, which forms the last subject of complaint in the address, I shall not notice in this place, any further than to say that it will form the matter of a separate communication, since the topic is too extensive and important to be conveniently embraced in my present despatch.

The preceding review of the question brought by the House of Assembly, appears to me entirely to justify the expectations which I have expressed at the commencement of this despatch of a speedy, effectual, and amicable termination of the protracted discussion of several years. It would be injurious to the House of Assembly to attribute to them any such captious spirit as would keep alive a contest upon a few minor and insignificant details, after the statement I have made of the general accordance between the views of his Majesty's Government and their own upon so many important questions of Canadian policy. Little indeed remains for debate, and that little will, I am convinced, be discussed



with feelings of kindness and good will, and with an earnest desire to strengthen the bonds of union already subsisting between the two Countries. His Majesty will esteem it among the most enviable distinctions of his reign to have contributed to so great and desirable a result.

Your lordship will take the

earliest opportunity of transmitting to the House of Assembly a copy of this despatch. I have the honor to be, my Lord, Your Lordship's most obedient servant.

(Signed,) GODERICH.

(A true copy.)

H. CRAIG, Secretary,

Monday — 21st Nov. 1831.

## FRANCE.

*Speech of the King of the French, July 24, 1831.*

### CHAMBER OF DEPUTIES — ROYAL SITTING.

Messrs. the peers and gentlemen deputies —

I am happy to find myself among you, in the centre of this place where France has received my oaths.

Penetrated with the duties which they have imposed upon me, I shall always give effect to the national will, of which you are the constitutional organs, and I expect on your part the frank and entire co-operation which will assure to my government that strength, without which it will be impossible to answer the expectations of the nation.

I have said, gentlemen, that the charter shall be a truth : what I have said is accomplished ; the charter is the constitutional monarchy with all its conditions loyally maintained, with all its consequences frankly accepted. (Lively applause.)

It is true that by the uniform

action of all the powers of the state, we shall put an end to those prolonged agitations which feed the guilty hopes of those who work for the return of the fallen dynasty, or of those who dream of the chimera of a republic. (Loud applause from the chamber here interrupted his majesty, and loud cries of 'long live the king!') Divided upon the object, they agree, however, in the will to overthrow, no matter at what price, the public order, founded by the revolution of July, but their efforts shall be discontinued or punished. (Fresh applause.)

In calling me to the throne, France has willed that the royalty shall be national ; it did not desire that royalty should be powerless. A government without strength would not suit the desires of a great nation.

I have just returned from travelling in France ; the proofs of affection which I have received

in this journey have very deeply touched my heart. The wishes of France are present to my thoughts: you will aid me to accomplish them. Order shall be protected; liberty be guaranteed; and every factious effort confounded and repressed. Thus, that confidence will be renewed for the future which alone can re-establish the prosperity of the country.

It is to carry this into effect, it is to consolidate more and more the constitutional monarchy, that I have caused to be prepared the different projects of laws which will be proposed to you.

You will, I hope, recognise in that which has for its object the decision of a great constitutional question reserved by the charter for the examination of the chambers, that I always seek to put our institutions in harmony with the interests and wishes of the nation, enlightened by experience and matured by time.

You will have likewise to examine, conformably to the promise of the charter, the projects of the laws destined to complete the departmental and municipal organization, to determine the responsibility of ministers, and of other agents of government, and to regulate the liberty of instruction.

Some other projects of laws upon the recruiting of the army, upon the penal code, upon finance, and on different public interests, will be equally submitted to you.

I admit the whole extent of the sufferings which the actual commercial crisis has caused to the nation: I am afflicted at it,

and I admire the courage with which they have been borne. I hope that they now approach their termination, and that soon the consolidation of order will give the necessary security to the circulation of capital, and restore to our commerce and industry that spirit and activity which, under a government always guided by the national interests, can only be momentarily interrupted.

The state of our finances is satisfactory: if our wants are great, abundant resources are exhibited for their aid.

The annual budgets for 1831 — 1832 will be presented to you in the opening of this session.

Reductions have been made in the different branches of the administration. They would have been carried still farther, if the increase of our means of defence, and the development of our military force, had not, up to this time, imposed upon us great sacrifices. (Bravos.)

I shall hasten to diminish this burden as soon as I have acquired the certainty of accomplishing it without compromising the dignity and safety of France.

This certainly will depend upon a general disarming. France desires this, the governments of Europe will feel its necessity, — the interests of all requires it.

I have the satisfaction to announce to you, that up to the present time I have not been under the necessity of employing all the resources which the chamber had placed at my disposal.

Since the revolution of July, France has regained in Europe the rank which belongs to her.

Nothing, henceforth, shall wrest it from her. (Bravos.) Never was her independence better guaranteed : our national guards, who are worth armies — our armies, the fit depositories of the inheritance of our ancient glory — will defend this independence as they have hitherto protected our internal peace and liberty.

I have to felicitate myself upon the amicable relations which foreign governments preserve with mine.

We ought to seek to preserve the bonds of friendship, so natural and so ancient, which unite France to the United States of America. A treaty has terminated a controversy for a long time pending between two countries which have such claims for mutual sympathy.

Other treaties have been concluded between the Mexican and Haytian republics.

All these acts shall be communicated to you as soon as they have been ratified, and when the financial stipulations which they contain shall be submitted to your sanction.

I have given new orders to our cruisers to assure the execution of the law of last session, for the more effectual suppression of the slave trade.

As soon as I demanded it, the troops of the emperor of Austria have evacuated the Roman states. A real amnesty, the abolition of confiscation, and important changes in the administrative and judicial system, have been given. Such are the ameliorations which will, we hope assure to those states, that their tranquillity shall

be no longer troubled, and that the equilibrium of Europe will be preserved by the maintenance of their independence.

The kingdom of the Low Countries, as constituted by the treaties of 1814 and 1815, has ceased to exist. The independence of Belgium, and her separation from Holland, have been acknowledged by the great powers. The king of the Belgians will not form part of the German confederacy. The fortresses raised to menace France, and not to protect Belgium, will be demolished. (Loud applause here again interrupted the speech.) A neutrality recognised by Europe, and the friendship of France, will assure our neighbors an independence of which we have been the first support.

The power which rules in Portugal has committed outrages on Frenchmen — it has violated against them the laws of justice and humanity ; to obtain redress vainly demanded, our ships appeared before the Tagus. I have received intelligence that they have forced the entrance of that river ; satisfaction, up to that time refused, has been since offered. The Portuguese ships of war are now in our power ; and the tri-colored flag floats under the walls of Lisbon. (Great applause, and cries of ‘ long live the king !’)

A sanguinary and furious conflict is prolonged in Poland. The conflict excites the liveliest emotions in the heart of Europe. I am endeavoring to put an end to it. After having offered my mediation, I have sought to in-



duce that of the great powers. I have wished to stop the effusion of blood ; to preserve the south of Europe from the evils of the contagion which this war is propagating ; and, above all, to assure for Poland, whose courage has recalled the old affections of France (cries of ‘bravo,’) the nationality which has resisted all time and its vicissitudes. (Loud applause.)

You will doubtless judge, that in these difficult negotiations, the true interests of France, the interests of her prosperity, of her power and her honor, have been defended with perseverance and dignity. Europe is now convinced of the loyalty of our disposition, and of the sincerity of our wishes for the preservation of peace ; but it is also with the

demonstration of our strength to sustain a war, that we rely, should we be called upon to resist unjust aggression.

It is in persisting in the political system followed up to this time, that we shall be able to assure our country of the benefits of the revolution which has saved our liberties, and to preserve them from new commotions, which would at once compromise our existence and the civilization of the world.

We approach, gentlemen, the great anniversary. I shall with satisfaction see you joined with me in its solemnities. May they be grave and touching commemorations, to awaken sentiments of union and concord, which can alone constitute our triumph.

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## BELGIUM.

*End of the Belgic Republic, July 21 , 1831.*

### *Regent's Speech to the Belgian Congress.*

Gentlemen, — By your decree of the 24th February last, and conformably to the 85th article of the constitution, you did me the honor of appointing me regent of Belgium. On the 25th I had the honor of being admitted into the bosom of the congress, and of solemnly taking the oath prescribed by the 80th article of our social compact.

My first cares were to compose a ministry. I called to it the

same individuals to whom the preceding government had entrusted the branches of the general administration. It was in confirming in their high functions the same men who had so powerfully aided in acquiring and consolidating our liberty that I wished to give to the nation a first pledge of my entire adhesion to the principles of our revolution, and of my firm resolution to secure the enjoyment of all its consequences.

I caused to be notified to the

governments of France and England the decree of the 24th February, which nominated me regent of Belgium, and credential letters were delivered to Belgic agents at these two courts with the title and rank of ministers plenipotentiary.

The French government admitted, without hesitation, our minister, who took rank along with foreign diplomatic agents accredited to the courts of the Palais Royal. His majesty, Louis Philip, did me the honor of addressing to me by his autograph letter of the 19th of March last, congratulations on my accession to the regency, and expressed to me at the same time, and in formal terms, the lively and invariable interest which he takes in Belgium.

It was by this first act that Louis Philip began to realize the promises which he had made me in February last, when I had the honor of taking leave of him.

He then said, on taking me by the hand, 'Tell the Belgic nation that I give them my hand in the person of the president of the congress, and that the Belgians may always reckon on my friendship.'

We were not so fortunate with the cabinet of St James's. — Our minister was not received with anything but civility (officiousness) by the English ministry; and the national honor not permitting me to leave him longer in an equivocal situation, I ordered him to be recalled.

The ministry, in the meantime, wishing to put an end to the unsatisfactory result of the

provisional state of a regency, and to close the revolution by a definitive government, had sent to our agent in London instructions to sound the dispositions of his royal highness the prince of Saxe Coburg, but obstacles of mere etiquette paralyzed the intended effects.

In the interval other men were called to the ministry, and the new ministers followed the indirect proceedings of their predecessors. What passed on that subject is known to you. You know, gentlemen, how the happy termination has been brought about, at which we are this day present.

I shall not, gentlemen, detain you with any observations on the acts of my regency. I shall confine myself to saying, that the effervescence of the passions incidental to our revolutionary state, the stagnation of commercial business, anxiety about the future fortunes of our country, have brought about events and caused embarrassments which have prevented the government from occupying itself as efficaciously as would have been desirable, with the institutions which are destined to complete the work of our political regeneration.

In the state of threatened hostilities with our neighbors, the government was under the necessity of devoting its chief attention to the army. The infantry has been considerably increased and organized, the formation of the cavalry has been completed, the artillery has been put on a respectable footing, the service of the commissariat, of the hospitals,

and of transports, has been secured; and, finally, by the side of the regular army another army is formed in the ranks of the civic guard, equally impatient to measure its strength with the enemy.

The concert of all the citizens, who, forgetting the spirit of party, are going to range themselves round the throne, will not contribute less than the courage and excellent spirit of our army, to support negotiations, to obtain an honorable peace, to consolidate our independence, and, if need be, to defend the integrity of our territory.

Our finances are in as prosperous a state as circumstances would permit, and the levy of the taxes is effected as easily as in profound peace.

If I have been, gentlemen, happy enough to aid in leading into port the vessel of the state, (for I regard the accession of prince Leopold to the throne of Belgium, and the recognition of him by the majority of the great powers of Europe, as the termination of our glorious revolution and the establishment of our liberties), if I have been able to accomplish any good, far be it from me to ascribe the merit to myself. No, gentlemen, I claim only the smallest share; for I confess, in the face of the nation and of all Europe, that without the special protection of Providence, no human prudence could have foreseen either the events or their results, nor could it have directed them in the interests of our country.

It was likewise in the noble firmness of the congress, and in

the wisdom of our deliberations, that I have found the most powerful support. Permit me, therefore, gentlemen, to address to you the expression of my lively and sincere gratitude.

But, gentlemen, let us declare that our task has been rendered very easy, by the excellent qualities of the Belgic people — a people as submissive to the laws, as docile to the voice of the chiefs who deserve its confidence, as it has shown itself jealous of its rights and impatient of the yoke of arbitrary power — of that people so courageous in battle, so firm in its resolutions — of that people essentially moral, of whom history will say, that during eleven months of revolution, and of privations among the most numerous class, with the exception of some excesses evidently provoked, there were never fewer crimes; of that people whose devotion and love will always be the recompense of a good government.

It is with the most perfect security, gentlemen, that I commit the destinies of this good people into the hands of a prince, whose noble character and private virtues are the best guarantees for those which he shall display from the throne.

With the most heartfelt emotion I may now say, I have seen the dawn of happiness opening on my country. I have lived long enough.

I deposit in your hands, gentlemen, the powers which you had confided to me, and I beg you to be so good as to record my declaration.



M. de Gaerlache replied to him in the following terms :—

Sir, the Regent—When I told you five months ago, in the midst of the congress that elected the temporary head of the nation, your nomination was ratified by the unanimous acclamations of your former colleagues, and the whole Belgic nation—that this spontaneous elevation was a tribute paid to your virtues by your equals—a testimony of profound gratitude for the services that you have rendered to the country, and an appeal to new services—we could easily judge from your preceding conduct, what line you would have followed in the elevated situation to which your colleagues and the whole nation raised you.

To have enjoyed great power without having for a moment abused it—to have remained always the same under the most trying causes, is a fact that will appear quite rational to those who know your character. I merely repeat what every body says. History will one day respect the conciliatory part you have acted amidst divergent opinions and fermenting parties. It will say that the national assembly, desiring to place in the hands of an individual, powers till then too much divided, sought for one who should displease nobody; who should have the esteem and confidence of all, and be willing to devote himself for his country. You, sir, were this man. History will say that this man having exercised a part of the royal prerogative during a revolution of five months, has not

lost a single friend or made a single enemy.

It is in the name of the congress, and of the nation, that I thank you. I venture to say that you have fulfilled our expectations, which you have just resigned to this assembly.

Loud acclamations followed this speech; and the king, having taken the oath and signed the *process verbat*, delivered the following speech:—

‘Gentlemen.—The solemn act which has been performed completes the social edifice commenced by the patriotism of the nation and its representatives. The state is definitively constituted in the form prescribed by the constitution itself. This constitution emanates entirely from you, and this circumstance, owing to the situation in which the country has been placed, seems to me to be fortunate. It prevents collisions which might arise between the different powers and impair the harmony that ought to prevail between them. The promptness with which I have repaired to Belgium must have convinced you that, faithful to my word, I have delayed coming among you only till the obstacles which oppose my accession to the throne could be removed by yourselves.

The various considerations which have been adduced in the important discussion which produced this result, will be the subject of my most serious deliberation.

I have received, from my entrance on the Belgic territory, marks of affection and good will,

for which I still feel equal emotion and gratitude.

At the sight of the population, ratifying by their acclamations the act of the national representation I could not but be convinced that I was called by the wish of the country, and I felt all the duties that such a reception imposes on me.

A Belgian by your adoption, I shall also make it my duty to be so always by my policy.

I have also been received with extreme kindness in that part of the French territory through which I passed, and I have considered these testimonies of good will, which I highly value, a pre-sage of the relations of confidence which ought to subsist between the two countries.

The result of every political commotion is to affect for a time the welfare of the people. I am too sensible of its importance not to direct my immediate attention and most active solicitude to revive commerce and manufactures which are the vivifying principles of national prosperity. The relations which I have formed in the countries which are our neighbors will second, I hope, the efforts which I shall immediately make to attain this end; but I take pleasure in believing that the Belgian people, so remarkable both for good sense and resignation, will give credit to the government for the difficulties of a position connected with a state of distress, which at this moment affects all Europe.

I intend to avail myself of every kind of information, to en-

courage all the means of amelioration; and it is in the places themselves that I have already begun to do so, and that I intend to collect the information which is the best calculated to guide the cause of the government in this respect.

Gentlemen, — I have accepted the crown which you offered me only with a view to perform a task equally noble and useful — that of consolidating the institutions of a generous people, and to maintain its independence. My heart knows no other ambition than that of seeing you happy. On so affecting a solemnity, I must also express to you one of my most ardent wishes. The nation issues from a violent crisis. May this day efface all hatred, stifle all resentments; may one only thought animate all Belgians — that of a frank and sincere union.

I shall esteem myself happy to concur in this noble result, which has been so well prepared by the wisdom of the venerable man, who has devoted himself with such noble patriotism in the salvation of his country.

Gentlemen, — I hope to be a pledge of peace and tranquillity to Belgium; but the expectations of man are not infallible. If notwithstanding all sacrifices to preserve peace, we should be threatened with war, I should not hesitate to appeal to the Belgian people, and I hope that it will, without exception, rally around its sovereign for the defence of the country, and the national independence.

## GERMANY.

*Public Protocol of the twentysecond Sitting of the Diet of the Germanic Confederation, held 28th June, 1832.*

Present, — Austria, Prussia, Bavaria, Saxony, Hanover, Württemberg, Baden, Hesse electoral, grand duchy of Hesse, Denmark, duchy of Luxembourg, grand ducal and ducal houses of Saxony, Brunswick, and Nassau, the two Mecklenbours, Oldenbourg, Anhalt, Schwarzbours, Hohenzollern, &c., and the free towns of Lubeck, Frankfort, Bremen, and Hamburgh.

*Measures for the support of legal order and tranquillity in the Germanic confederation.*

The Austrian ambassador, president of the diet, declared that the present state of affairs in Germany had only attracted the attention of the emperor as long as the excitement of the people's minds was no more than might be expected, from the great events in which other countries were involved. His majesty hoped that public opinion would be influenced by the preponderance which the calm and well disposed majority must have among a people whose virtues and eminent qualities are the admiration of Europe. His imperial majesty having, however, perceived with great sorrow, that Germany was hastening with gigantic strides to a revolution, resolved to consult his august ally, the king of Prussia, to consider in common the state of Germany, and subsequently, together with the king,

to discuss, with the other German governments, the measures which the present state of things imperatively demands.

In consequence of various conferences with all the members of the confederation, the object of which was the desire to maintain that which exists loyally and in accordance with the law of nations, and to fulfil the duties imposed on them, to watch over the welfare of the people confided to them, the ministers of Austria and Prussia are commissioned to make to the diet the following communication. (Want of room obliges us to omit this communication and the debate, and we proceed to the conclusion of the protocol.)

The following resolution was unanimously adopted: —

All the governments of the confederation, gratefully acknowledging the attention, (of which the emperor of Austria and the king of Prussia have given new proofs), to the general welfare of Germany, have unanimously resolved as follows:

1. Considering that by art. 57 of the final act concluded at Vienna, all the powers of the state must remain united in the head of the state, and that the sovereign, by the constitution of the states, can be limited only in the exercise of certain rights by the co-operation of the states, every



German sovereign, a member of the confederation, is not only authorized to reject the petitions of the estates which may be of a contrary tendency, but his duty to reject them flows from the object of the confederation itself.

2. As farther ascending to the spirit of the said 57th article, and the consequences comprehended in the 58th article, the estates cannot refuse to any German sovereign the means necessary to conduct the government in a manner conformable to his obligations, as a member of the confederation, and those which are imposed on him by the constitution of his country; therefore, all cases in which assemblies of states may attempt to make the granting of the taxes necessary for the government dependent directly or indirectly, on the fulfilment of other objects or wishes, must be reckoned among the cases to which articles 25 and 26 of the act of Vienna are applicable.

ART. 25. The maintenance of internal tranquillity and order in the confederated state belongs to the government alone. Nevertheless, (and as one exception), for the internal security of the whole confederation, and in consequence of the obligation of its members reciprocally to assist each other, the co-operation of all for the maintenance or restoration of tranquillity may take place in case of resistance of the subjects to the government, in open insurrection, or dangerous movements in several of the confederated states.

ART. 26. When in any confederate state, by the resistance

of the inhabitants to the government, internal tranquillity is directly threatened, and a propagation of seditious movements to be feared, or if an insurrection has actually broken out, and the government itself, after having tried all legal means, claims the assistance of the confederation, the latter is bound immediately to offer its assistance towards the restoration of order. If in the latter case the government is notoriously unable to suppress the rebellion by its own means, and hindered from applying to the confederation for assistance by circumstances, the confederation is then bound, even though not applied to, to interfere for the re-establishment of order. In no case, however, can the measures in question be continued, longer than the government to which assistance is given shall think it necessary.

3. The internal legislation of the German confederate states must not be opposed to the object of the confederation, as described in art. 2 of the act of confederation, and art. 1 of the final act, nor impede the fulfilment of the federal duties, particularly the levying of the necessary supplies.

4. To secure the dignity and rights of the confederation, and of the assembly representing it, against demands of all kinds, and in order to facilitate in the several states the maintenance of the constitutional relations between the governments and their assemblies of states, a committee shall be appointed by the diet expressly for this purpose, to make itself constantly acquainted with

the proceedings of the estates in the German confederate states, to take into consideration the proposals and resolutions contrary to the obligations with respect to the confederation, or to the rights of the governments guaranteed by the federal compact, and to give notice of such to the diet, which will then, if it judge the matter deserving attention, consult with the governments interested. The committee shall be appointed for six years, at the end of which its continuance shall be taken into consideration.

5. As by article 59 of the final act of Vienna, in those countries where the publicity of the debates of the estates is guaranteed by the constitution, the free expression of opinion cannot be used either in the debates themselves, or in the publication of them by the press, in a manner calculated to endanger the tranquillity of the particular state, or of all Germany, and that provisions must be made for this in the regulations of the chambers; the governments of the confederation bind themselves severally and collectively, to each other, to adopt and carry into effect, as they have hitherto been bound to do by their federal re-

lations, proper measures to prevent all attacks on the confederation in the assemblies of the estates, and to repress such attacks, each according to the forms of its own constitution.

6. As the diet is already called by article 17 of the final code, to maintain the true meaning of the act of the confederation, and of the enactments contained in it, to declare it in conformity to the object of the confederation, should any doubt arise respecting the interpretation of it, it is evident that the German confederation alone, and exclusively, is authorised to interpret the act of confederation and the final act, which right it exercises through the diet, its legal organ.

With respect to the abuses of the periodical press, the diet waits for the report of the committee appointed in its 14th sitting this year, for the introduction of uniform ordinances respecting the press, that it may take a final resolution, and it confidently expects, from the zeal of the committee, that it will, as speedily as possible, complete its labors in the spirit of the above representation. (Here follow the signatures.)

## RUSSIA AND POLAND.

### *Proclamation of the Emperor of Russia.*

Moscow, Nov. 2.

‘ We, Nicholas I., by the grace of God, Emperor and Autocrat of all the Russias, King of Poland, &c. &c.

Our preceding manifestations and proclamations have sufficiently proved to our faithful subjects how painful it was to us to be obliged to employ arms to quell

the insurrection which had broken out in our kingdom of Poland. Deeply affected by the innumerable evils to which that country was given up, we wished to employ only the means of persuasion to recall our misguided subjects to their duty ; but our voice was not heard, and Poland will owe the return of peace and legal order only to the victorious arms of the empire to which its fate is indissolubly united. We shall, however, distinguish the great majority of those who were carried beyond the bounds of their duty from the evil-minded, who, deceived by melancholy illusions, and dreaming of an impossible state of things, had recourse to calumny and treachery to attain their object. They alone are answerable for the violation of the most solemn oaths ; for the ruin of their country, which had flourished ever since its union with Russia ; for the blood shed in the civil war ; for the insurrection in the Imperial provinces ; and lastly, for the burden which has been laid upon Russia. Their punishment, commensurate with their crimes, is fixed by the laws ; but our justice and our clemency shall allay the fear of the weak, and of those who were only misled. To end their apprehension once for all, and make them positively acquainted with our will, we have ordained as follows. —

I. A complete and unconditional amnesty is granted to all those of our subjects in the kingdom of Poland who have returned to their obedience. None of those included in this amnesty

shall now or at any future time be condemned or prosecuted for the actions or political opinions done or expressed during the whole time of the insurrection.

II. The following are excepted :

1. The authors of the bloody insurrection of the 29th November, 1830 ; those who on that night repaired to the Belvedere Palace with a view to take the life of our beloved brother, the deceased Cesarewitsch ; the murderers of the Generals and of the Russian and Polish Officers.

2. The authors of the horrors which occurred in Warsaw on the 15th August last.

3. Those who since the 25th of January have at different times been concerned as chiefs or members of the Government illegally established in the kingdom of Poland, and who have not sent in their submission previously to the 13th of September, as well as those who, after the subjection of Warsaw, formed an illegal Government at Zakroczyn, and thereby forfeited all claim to our mercy.

4. The members of the Diet who proposed or supported the act of deposition of the 25th of January.

5. The officers belonging to the corps of Romarino, Rozyck, Kaminski, and Rybinski.

6. The subjects of the western governments who may have participated in the Polish insurrection.'

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*Manifesto.*

By the Grace of God, Nicho-



las I., emperroꝛ of Russia, king of Poland, &c. When by our manifesto of January 2d, last year, we announced to our faithful subjects the march of our troops into the kingdom of Poland, which was momentarily snatched from the lawful authority, we at the same time informed them of our intention to fix the future fate of this country on a durable basis, suited to its wants, and calculated to promote the welfare of our whole empire. Now that an end has been put by force of arms to the rebellion in Poland, and that the nation, led away by agitators, has returned to its duty, and is restored to tranquillity, we deem it right to carry into execution our plan with regard to the introduction of the new order of things whereby the tranquillity and union of the two nations, which Providence has entrusted to our care, may be forever guarded against new attempts. Poland, conquered in the year 1815 by the victorious arms of Russia, obtained, by the magnanimity of our illustrious predecessor, the emperor Alexander, not only its national existence, but also special laws sanctioned by a constitutional charter. These favors, however, would not satisfy the eternal enemies of order and lawful power. Obstinate persevering in their culpable projects, they ceased not one moment to dream of a separation between the two nations subject to our sceptre, and in their presumption they dared to abuse the favors of the restorer of their country, by employing for the destruction of his noble work the

very laws and liberties which his mighty arm had generously granted them. Bloodshed was the consequence of this crime. The tranquillity and happiness which the kingdom of Poland had enjoyed to a degree until then unknown, vanished in the midst of civil war and a general devastation. All these evils are now passed. The kingdom of Poland again subject to our sceptre will regain tranquillity, and again flourish in the bosom of peace, restored to it under the auspices of a vigilant government. Hence we consider it one of our most sacred duties to watch with paternal care over the welfare of our faithful subjects, and to use every means in our power to prevent the recurrence of similar catastrophes, by taking from the ill-disposed the power of disturbing public tranquillity. As it is, moreover, our wish to secure to the inhabitants of Poland the continuance of all the essential requisites for the happiness of individuals and of the country in general, namely, security of persons and property, liberty of conscience, and all the laws and privileges of towns and communes, so that the kingdom of Poland, with a separate administration adapted to its wants, may not cease to form an integral part of our empire, and that the inhabitants of this country may henceforward constitute a nation united with the Russians by sympathy and fraternal sentiments, we have, according to these principles, ordained and resolved this day, by a new organic statute to introduce a new form and order in the ad-

ministration of our kingdom of Poland.

NICHOLAS.

St Petersburg, Feb. 26, 1832.

COUNT STEPHEN GRABOWSKI,  
*The secretary of State.*

After this manifesto, the organic statutes of Poland are given. The principal provisions are as follows : —

Poland is forever united with the Russian empire, of which it forms an integral part. The kingdom shall have its separate administration, its own code of civil and criminal laws, and the privileges of towns and communes shall remain in force. The coronation of the emperor of Russia and king of Poland will in future take place at Moscow by one and the same act, in the presence of special deputies appointed for the occasion. In case of a regency in the empire, the power of the regent will extend over the kingdom of Poland. The liberty of worship is guaranteed ; the Catholic religion being that of the majority of the inhabitants, will be under the special protection of the government ; personal liberty is granted ; no one shall be arrested except in cases provided for by the law and under the regular formalities, and must be brought before a competent court of justice within three days. The punishment of confiscation can only be applied to offences against the state of the first class. The press will be subject to some indispensable restrictions. The kingdom of Poland is to contribute to the gener-

al expenses of the empire in due proportion. The taxes which existed previous to November 1830, shall be maintained. The commercial relations of the kingdom and the empire are to be regulated by the mutual interests of the parties.

For the future there shall be but one army for Poland and Russia, and the emperor reserves to himself to fix hereafter the part which Poland is to contribute to its composition. The inhabitants of either country may become mutually naturalized. The high administration is composed of the council of government, presided by the governor-general. The council shall consist of a director-general, a comptroller-general, and other members appointed by the sovereign. The council of government proposes the candidates for archbishops, bishops, directors-general, &c. who are to be chosen from among all the subjects of his majesty without distinction. There is also a council of state ; to which is entrusted the care of administrative laws. All generally important laws, such as the budget, are to be sent into the council of state of the empire for revision and sanction. All administrative business is to be transacted in the Polish language. The old division of the country continues the same, as well as the committees of the Palatinates. The assemblies of the nobility, of the communes, and the councils of the Palatinate shall also continue.

COPY OF THE CONVENTION BETWEEN FRANCE  
AND ENGLAND.

Signed at London on the 22d October.

His majesty the king of the French, and his Majesty the King of the United Kingdom of Great Britain and Ireland, having been invited by his Majesty the King of the Belgians to carry into execution the articles of the treaty relative to the Netherlands, concluded at London on the 15th of November, 1831, the execution of which, according to the terms of the 25th article of the said treaty, has been jointly guaranteed by their said Majesties the Emperor of Austria, the King of Prussia, and the Emperor of all the Russias ;

Having moreover recognised that all the efforts made in common by the Five Powers who signed the said treaty to arrive at its execution by means of negotiation have hitherto failed to effect ;

Agreeing besides that further delay in its execution, will seriously compromise the general peace of Europe, have determined, notwithstanding the regret they experience at finding that their Majesties the Emperor of Austria, the King of Prussia, and the Emperor of all the Russias, are not at this moment prepared to concur in the active measures which are called for in order that the treaty may be carried into effect, on fulfilling, in that respect, without any further delay, their own engagements, and on carrying on by mutual consent the measures best calculated for that purpose, their Majesties the King of the French,

and the King of the United Kingdom of Great Britain and Ireland, have appointed for their Plenipotentiaries, namely, his Majesty the king of the French, M. Ch. Maurice de Talleyrand Perigord, etc. etc. and his Majesty the king of the United Kingdom of Great Britain and Ireland, the Right Hon. Henry John Viscount Palmerston, etc.

Who after having exchanged their full powers, which were found in good and due form, have agreed upon and signed the following articles.

ART. 1. His Majesty the King of the French, and his Majesty the King of the United Kingdom of Great Britain and Ireland, will notify to his Majesty the King of the Netherlands, and his Majesty the King of the Belgians respectively, that their intention is to proceed immediately to the execution of the treaty of the 15th of Nov. 1831, conformably to engagements which they have contracted ; and as a first step towards the accomplishment of this end, their said Majesties will require his Majesty the King of the Netherlands to enter into an engagement by the 2d of November, at the latest, to withdraw on the 12th of the said month, all his troops from the territories which, by the first and second article of the said treaty, ought to form the Kingdom of Belgium, of which the contracting parties to that treaty have guaranteed the independence and neutrality.

And their said Majesties will



also require his Majesty the King of the Belgians to enter into an engagement on the 2d of Nov. of the present year, at the latest to withdraw on or before the 12th of the said month of Nov. his troops from the territories of his Majesty the King of the Netherlands, so that after the 12th instant, there shall be no Netherland troops within the limits of the Kingdom of Belgium, nor any Belgian troops in the territory of the King of the Netherlands. And their Majesties the King of the French and the King of the United Kingdom of Great Britain and Ireland, declare at the same time to his Majesty the King of the Netherlands, and to his Majesty the King of the Belgians respectively, that if this requisition to their Majesties is not complied with, they shall proceed without any further notice or delay in the measures which shall appear to them necessary to compel the execution of it.

ART. 2. If the king of the Netherlands refuses to agree to the engagement mentioned in the preceding article, their Majesties the King of the French, and the king of the United Kingdom of Great Britain and Ireland will order an embargo immediately to be put upon all the Netherland vessels in the ports of their respective dominions, and they will also order their respective cruisers to stop and bring into their ports all the Netherland vessels which they may meet with at sea, and a French and English squadron combined will be stationed on the coasts of Holland for the more efficacious execution of this measure.

ART. 3. If, on the 15th of No-

vember, the Netherland troops shall be still in the Belgian territory, a French corps shall enter Belgium for the purpose of compelling the Netherland troops to evacuate the said territory, it being well understood that the king of the Belgians shall have previously expressed his wish for the entrance of the French troops upon his territory for the purpose above stated.

ART. 4. If the measure pointed out in the preceding article becomes necessary, its objects shall be limited to the expulsion of the Netherland troops from the citadel of Antwerp, and the forts and places dependent upon it, and his Majesty the King of the French, in his lively solicitude for the independence of Belgium as for that of all established Governments, expressly undertakes not to occupy any of the fortified places of Belgium by the French troops, which shall be employed in the above service, and when the citadel of Antwerp and the ports and places dependent upon it, shall have been evacuated by the Netherlands troops, they will be immediately delivered up to the military authorities of the King of the Belgians, and the French troops will immediately retire upon the French territory.

ART. 5. The present convention shall be ratified and the ratifications exchanged at London, within eight days or sooner if possible.

In testimony of which the respective Plenipotentiaries have signed the preceding articles, and have affixed the seals of their arms.

(Signed)

TALLEYRAND.  
PALMERSTON.

## CONSTITUTION OF POLAND.

By the grace of God, we, Nicholas, I., Emperor and Autocrat of all the Russias, King of Poland, &c. &c.

In our constant solicitude for the happiness of the nations which Providence has confided to our government, we are occupied in fixing the basis for the future organization of the Kingdom of Poland, having regard to the true interests and positions of the country, and to the local wants and manners of the inhabitants.

## GENERAL DISPOSITIONS.

ART. 1. The kingdom of Poland is to be forever re-united to the Russian empire, and form an inseparable part of that empire. It shall have a particular administration conformably to its local necessities, as well as a civil and military code. The statutes and the laws of cities and towns remain in full vigor.

ART. 2. The crown of the kingdom of Poland is hereditary in our person and in our heirs and successors, agreeably to the order of succession to the throne prescribed by all the Russias.

ART. 3. The coronation of the Emperors of all the Russians and kings of Poland shall be one and the same ceremonial, which shall take place at Moscow, in the presence of a deputation from the kingdom of Poland, which shall assist at that solemnity with the deputies from the other parts of the empire.

ART. 4. In the possible event of a regency in Russia, the power of the regent or regentess of the empire will extend over the kingdom of Poland.

ART. 5. The freedom of worship is guaranteed; every one is at liberty to exercise his religion openly, under the protection of government, and the difference of christian faiths shall never prove a pretext for the violation of the rights and privileges which are allowed to all the inhabitants. The Roman Catholic religion, being that of the majority of our Polish subjects, shall be the object of especial protection of the government.

ART. 6. The funds which the Roman Catholic clergy possess, and those of the Greek church united, shall be considered as the common and inviolable property of the hierarchy of each of those creeds.

ART. 7. The protection of the laws is assured to all the inhabitants without distinction of rank or class. Each shall be empowered to assume dignities or to exercise public functions, according to his personal merits or talents.

ART. 8. Individual liberty is guaranteed and protected by the existing laws. No one shall be deprived of his liberty, or called to justice, if he be not a transgressor of the law in all the forms prescribed. Every one detained shall be apprised of the motive of arrest.

ART. 9. Each person arrested must submit to a delay of three days to be heard and judged of, according to the forms of law, before competent tribunals; if he be found innocent, he will instantly obtain his liberty. He will be equally restored to liberty who shall furnish a sufficient surety.

ART. 10. The form of judicial inquests directed against the superior functionaries of the kingdom, and against persons accused of high treason, shall be determined by a particular law, the foundation of which shall be accordant with the other laws of our empire.

ART. 11. The right of property of individuals, and of corporations, is declared sacred and inviolable, inasmuch as it will be conformable to the existing laws. All the subjects of the kingdom of Poland are free to quit the country, and to carry away their goods, provided they conform to the regulations published to that effect.

ART. 12. The penalty of confiscation shall not be enforced but against state crimes of the first class, as may be hereafter determined by particular laws.

ART. 13. Publication of sentiments, by means of the press, shall be subjected to restrictions which will protect religion, the inviolability of superior authority, the interests of morals, and personal considerations. Particular regulations to this effect will be published according to the principles which serve as a basis to this object in the other parts of our empire.

ART. 14. The kingdom of Poland shall proportionably contribute to the general expenditure and to the wants of the empire. The proportion of taxes will be stated hereafter.

ART. 15. All contributions and all taxes which existed in November 1830, shall be levied after the manner formerly settled till the new fixing of taxes.

ART. 16. The treasury of the kingdom of Poland, and all the other branches of the administration, shall be separated from the administration of the other parts of the kingdom.

ART. 17. The public debt of Poland, acknowledged by us, shall be guaranteed as formerly, by the government, and indemnified by the receipts of the kingdom.

ART. 18. The bank of the kingdom of Poland, and the laws respecting credit, shall continue under the protection of Government.

ART. 19. The mode of commercial transactions between the Russian empire and kingdom of Poland shall be regulated according to the respective interests of the two countries.

ART. 20. Our army in the empire and in the kingdom shall compose one in common, without distinction of Russian or Polish troops. We shall reserve to ourselves a future decision of this, by an especial law, in which arrangement, and upon whose basis, the kingdom of Poland shall participate with our army. The number of troops which shall serve as the military defence of the kingdom, will be also ultimately determined upon by law.

ART. 21. Those of our subjects of the empire of Russia, who are established in the kingdom of Poland, who possess or shall possess, real property in that country, shall enjoy all the rights of natives. It shall be the same with those of our subjects of the kingdom of Poland, who shall establish themselves, and shall possess property, in the oth-



er provinces of the empire. We reserve to ourselves to grant hereafter letters of naturalization to other persons, as well to strangers as to Russians, who are not yet established there. Those of our subjects of the Russian empire who may reside for a certain time in Poland, and those of our subjects of the kingdom of Poland, who may sojourn in other parts of the empire, are subject to the laws of the country where they reside.

ART. 22. The superior administration of the kingdom of

Poland is confided to a council of administration, which shall govern the kingdom in our name, under the presidency of the Governor of the kingdom.

ART. 23. The council of administration is composed of the Governor of the kingdom, of superior directors, who superintend the commissions, and among whom are divided the interests of the administration, of comptroller, presiding over the supreme chamber of finance, and of other members, whom we shall appoint by special orders.'

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## NEW DANISH CONSTITUTION.

We, Frederick the Sixth, by the Grace of God King of Denmark, &c, make known that we, in order to enable us and our successors on the Throne, always to obtain the most certain information respecting everything that may promote our dear and faithful people's welfare, and, at the same time, to knit those ties the closer which unite the Royal House with the people, and give animation to the public spirit, we have resolved to establish Deliberative Provincial States in our Kingdom of Denmark, as well as in our Duchies of Sleswig and Holstein. In order to prepare the fulfilment of this our paternal determination, we have previously had the case examined, and although it has not yet attained that degree of perfection which is necessary previous to its being

passed into a complete law, we have still found it proper now to notify the general basis, which will be the foundation of the organization which we are about to confer on the Provincial States in our kingdom of Denmark.

With respect to the above, we have most graciously ordained as follows :—

1. There are to be in our Kingdom of Denmark two Assemblies of Provincial Consultative States, one for the district of Zealand Funen and Lolland Falster, together with Iceland, and another for the four provinces in North Jutland.

2. In each of these Assemblies are admitted such a number of members elected by their fellow burghers as we further shall determine. The right of election is to be exercised on the condi-

tion and in the manner which we shall prescribe by a separate ordinance, by the proprietors in towns and in the country : in consideration also of the established right of possession which our laws grant to lease-holders, we will likewise give them access to a participation in the elections. In like manner the possession of landed property is to be a requisite condition to eligibility ; and although, generally speaking, we are not willing to preclude those of our subjects holding official situations, who are at the same time landed proprietors, from having a seat in the Assemblies of the States, when they are elected thereto, no person in office who is provided with a commission, or charge, or confirmation subscribed by us, is allowed to accept of such appointment, without having first obtained our supreme sanction.

3. It is our determination to appoint members of the University and of the clergy to a seat in the Assemblies of Provincial States, and, according to circumstances, some few others whom we, in consideration of their situations and merits, might consider particularly adapted for it.

4. Before we give out any law to alter either the personal or possessive rights of our subjects, or the taxes and public imposts, we will cause the plan of such a law to be laid before the Assemblies of both States, or, if it should only relate to one or more of the Provinces, then before the Provincial States to which it belongs, that the States may be enabled to take the law into consid-

eration, and submissively communicate the result of their deliberations.

5. If the Provincial States should find occasion to wish for any change in the general laws or institutions of the country, or those immediately affecting the province, or if they should find it requisite to bring forward any complaint of the manner in which the laws are conducted, they may represent the same to us and make their proposals, whereupon we will take such proposition into consideration, and then make known our determination.

6. As we consider it useful to allow the provincial states to take a part in the affairs of the parishes. (*communes*,) we will take into consideration how this may be executed, and then further determine respecting it.

7. The provincial states will assemble when we summon them. This will take place every second year, but when it may be found necessary, we will also appoint extraordinary meetings of the States.— With respect to the duration of the sittings, we will, each time, according to circumstances, determine how long they are to last, after which we will have the dissolution of the meeting proclaimed.

8. We will make known the necessary further determinations, not only respecting the number of those persons who are to be elected as members of each of the Provincial Assemblies, but also the distribution of the number in each of the districts, and of the further stipulations for the right of election and eligibility, togeth-

er with the manner of proceeding at the elections and in the Assemblies of the States. But previously to the plan for these legal arrangements being laid before us, we will assemble some enlightened men, from different parts of the kingdom, for the purpose of taking into consideration those objects which will be laid before them and acquaint us with their opinions, founded upon knowledge of place and legal circumstances. If it in time should be found requisite to make any

change in these ultimate decisions, such will, however, not take place, until we, in accordance with paragraph four, have obtained the opinions of the States.

Given at our Royal Residence, Copenhagen, the 28th of May, 1231, under our royal hand and seal.

(Signed) FREDERICK R.

STEMANN,  
ORSTED,  
KJERULFF,  
HANSEN,

MONRAD,  
LASSEN,  
LANGE.

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## A C T S

### *Passed at the First Session of the Twentysecond Congress of the United States.*

N. B. The titles only of private acts and appropriation bills are given; and the dates of approval refer back to the last preceding dates.

Andrew Jackson, President. J. C. Calhoun, Vice President, and President of the Senate. Andrew Stevenson, Speaker of the House of Representatives.

CHAP. 1. An Act to authorize the State of Illinois to sell twenty thousand acres of the saline lands in said State. or final receipts, and patents may issue in the name of such assignee, any thing in the act aforesaid to the contrary notwithstanding.

CHAP. 2. An Act for the relief of William J. Quincy and Charles E. Quincy. CHAP. 10. An Act to direct the manner of issuing patents on confirmed land claims in the Territory of Florida.

CHAP. 3. An Act for the relief of Henry H. Tuckerman. SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all patents that

CHAP. 4. An act for the relief of Robertson and Barnwell. are, or may be, by law, directed to be issued on private land claims confirmed by the commissioners of private land claims, and by the several acts of Congress approving their reports and confirming the titles to lands in the Territory of Florida, shall be, and they are hereby, required to be issued to the confirmees, or to the assignee, or present owner, where the land has been sold or transferred since the confirmation of the title ; and it shall be the duty of the commissioner of the General Land Office, upon the production of satisfactory proof of the death of the confirmee, or upon the production of a regular chain of title from the confirmee, to cause the patent to be issued to the heirs and legal representatives, or to the assignees of the confirmee, as the case may be.

CHAP. 5. An Act for the relief of Lewis Anderson.

CHAP. 6. An Act for the relief of William Forsythe.

CHAP. 7. An Act for the relief of Charles Cassidy.

CHAP. 8. An Act for the relief of Dixon Spears.  
Approved, January 19, 1832.

CHAP. 9. An Act supplementary to an Act to grant pre-emption rights to settlers on Public Lands.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act, all persons who have purchased under an act, entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved the twentyninth of May, one thousand eight hundred and thirty, may assign, and transfer their certificates of purchase

CHAP. 11. An Act for the relief of Robert A. Forsythe.

CHAP. 12. An Act for the relief of William D. King, James Daviess, and Garland Lincicum.

CHAP. 13. An Act for the relief of Stephen Hook.

- CHAP. 14. An Act for the relief of Henry Kilbourn.  
Approved, January 23, 1832.
- CHAP. 15. An Act to alter the time of holding the spring term of the circuit court of the United States for the southern district of New York.
- CHAP. 16. An Act to authorize the Secretary of the Treasury to compromise the claim of the United States in the Commercial bank of Lake Erie.  
Approved, February 10, 1832.
- CHAP. 17. An Act for the relief of John Proctor.
- CHAP. 18. An Act for the relief of Lawrence L. Van Kleeck.
- CHAP. 19. An Act for the relief of James Lucius Sawyer.
- CHAP. 20. An Act granting a pension to Jared Cone :
- CHAP. 21. An Act for the relief of Andrew H. Richardson, executor of Valentine Richardson.
- CHAP. 22. An Act for the relief of Ariel Ensigh.
- CHAP. 23. An Act for the relief of Adam Peck.
- CHAP. 24. An Act for the relief of Antoine Dequindre, Richard Smith, and others, Michigan volunteers.  
Approved, February, 18, 1832.
- CHAP. 25. An Act to provide for the payment of arrearages in the naval service, chargeable to the enumerated contingent prior to the first day of January, one thousand eight hundred and thirty-two.
- CHAP. 26. An Act making appropriations for the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirtytwo.
- CHAP. 27. An Act making appropriations for fortifications for the year one thousand eight hundred and thirtytwo.
- CHAP. 28. An Act making appropriations for the naval service for the year one thousand eight hundred and thirtytwo.
- CHAP. 29. An Act for the relief of William Tharp.
- CHAP. 30. An Act for the relief of the representatives of Doctor Hanson Catlett.
- CHAP. 31. An Act for the relief of the heirs of William Robertson, deceased, and Daniel S. Leonard.
- CHAP. 32. An Act for the relief of John Sapp.
- CHAP. 33. An Act for the relief of Peter Peck.
- CHAP. 34. An Act for the relief of Cornelius Overton.  
Approved, February 24, 1832.
- CHAP. 35. An Act for the relief of Edward Lee.
- CHAP. 36. An Act for the relief of Eber Hubbard.
- CHAP. 37. An Act for the relief of the legal representatives of Samuel Wagstaff.
- CHAP. 38. An Act for the relief of Percia Tupper, executrix of Samuel Tupper, deceased.
- CHAP. 39. An Act for the relief of Jane Muir.  
Approved March 7, 1832.
- CHAP. 40. An Act for the relief of Edward Livingston.
- CHAP. 41. An Act for the relief of William Owens.
- CHAP. 42. An Act for the relief of Amariah Squirrel, administrator of Jacob Squirrel, deceased.
- CHAP. 43. An Act for the relief of Robert Jones and William A. Fleming.
- CHAP. 44. An Act for the relief of the legal representatives of Samuel Keep.
- CHAP. 45. An Act for the relief of Anthony Foreman, John G. Ross, Cherokee Delegation.
- CHAP. 46. An Act for the relief of Bernard Marigny, of the State of Louisiana.



CHAP. 47. An Act for the relief of William Williamson.

CHAP. 48. An Act for the relief of Nathan Towson, Paymaster-General of the army of the United States.

CHAP. 49. An Act for the relief of Richard S. Hackley.

CHAP. 50. An Act for the relief of J. P. and E. B. Penny.  
Approved, March 15, 1832.

CHAP. 51. An Act for the adjustment and settlement of the claims of the State of South Carolina against the United States.

CHAP. 52. An Act to amend the several acts establishing a Territorial Government in Florida.

CHAP. 53. An Act for the relief of John McDonough.

CHAP. 54. An Act for the relief of Sylvester Havens.

CHAP. 55. An Act for the relief of Leonard Dennison and Elisha Ely.

CHAP. 56. An Act for the relief of Captain Thomas Paine.

CHAP. 57. An Act explanatory of the act entitled 'An act for the relief of officers and soldiers of the Virginia line and Navy, and of the continental army, during the revolutionary war,' approved thirtieth of May, one thousand eight hundred and thirty.

CHAP. 58. An Act to add a part of the southern to the northern district of Alabama.

CHAP. 59. An Act for the relief of John Rodgers.

CHAP. 60. An Act for the relief of Robert Smart.

CHAP. 61. An Act for the relief of John Menary.

CHAP. 62. An Act for the relief of Thomas Dennis, and the legal representative of Asa Hartfield.

CHAP. 63. An Act for the relief of Benedict Joseph Flaget.  
Approved, March, 31, 1832.

CHAP. 64. An Act making appropri-

ations for the support of the army for the year one thousand eight hundred and thirtytwo.

CHAP. 65. An Act supplementary to the several laws for the sale of the Public Lands.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the first day of May next, all the public lands of the United States, when offered at private sale, may be purchased at the option of the purchaser, either in entire sections, half sections, quarter sections, half quarter sections, or quarter-quarter sections; and in every case of a division of a half quarter section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter sections, which may thereafter be sold, shall be ascertained as nearly as may be, in the manner and on the principles, directed and prescribed by the second section of an act, entitled 'An act concerning the mode of surveying the public lands of the United States,' passed on the eleventh day of February eighteen hundred and five; and fractional sections, containing fewer or more than one hundred and sixty acres, shall in like manner, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Secretary of the treasury: *Provided,* That this act shall not be construed to alter any special provision made by law for the sale of land in town lots; *And, provided also,* That no person shall be permitted to enter more than one half quarter section of land under this act, in quarter quarter sections, in his own name, or in the name of any other person, and in no case unless he intends it for cultivation, or for the use of his improvement. And the person making application to make an entry under this act, shall file his and her affidavit, under such regulations as the Secretary of the Treasury may prescribe, that he or she makes the entry in his or her own name, for his or her own benefit, and not in trust for another: *Provided, further,* That all actual settlers, being house-keepers, upon the public lands, shall have the right of pre-emption to enter, within six months after the passage of this act, not exceeding the quantity of one half quarter section, under the provisions of this act, to include his or their improvements, under such regulations as have been, or

may be prescribed by the Secretary of the Treasury; and in cases where two persons shall live upon the same quarter section, subject to be entered under the provisions of this act, each shall have the right to enter that quarter section which includes his improvements.

CHAP. 66. An Act to authorize the Judges of the courts of the United States to take bail of the claimants of property seized, and perform other acts in vacation.

SECT. 1. *Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled,* That in any cause of admiralty and maritime jurisdiction, or other case of seizure, depending in any court of the United States, any judge of the said court, in vacation, shall have the same power and authority to order any vessel, or cargo, or other property, to be delivered to the claimants, upon bail, or bond, under the statute as the case may be, or to be sold when necessary as the said court now has in term time, and to appoint appraisers, and exercise every other incidental power necessary to the complete execution of the authority herein granted; and the said recognition of bail or bond, under such order, may be executed before the clerk, upon the party's producing the certificate of the collector of the district, of the sufficiency of the security offered; and the same proceedings shall be had in case of said order of delivery, or of sale, as are now had in like cases when ordered in term time: *Provided,* That upon every such application either for an order of delivery or of sale, the collector and the attorney of the district shall have reasonable notice in cases of the United States, and the party or counsel in all other cases.

CHAP. 67. An Act providing for the organization of the Ordnance Department.

CHAP. 68. An Act for the relief of the sureties of Amos Edwards.

CHAP. 69. An Act to change the time of holding the United States district court, at Staunton, in the western district of Virginia.

CHAP. 70. An Act authorising the Governor of the Territory of Arkansas to lease the Salt Springs, in

said Territory, and for other purposes.

CHAP. 71. An Act making appropriations in conformity with the stipulations of certain Indian treaties.

CHAP. 72. An Act providing for the postponement of the trial of certain cases now pending in the Superior courts of Arkansas Territory, and for withholding from sale or entry certain lands in said Territory.

CHAP. 73. An Act for the relief of Jefferson College in the State of Mississippi.

Approved, April 20, 1832.

CHAP. 74. An Act making appropriations for the support of Government for the year one thousand eight hundred and thirtytwo.

CHAP. 75. An Act to provide the means of extending the benefits of vaccination, as a preventive of the Small Pox, to the Indian tribes, and thereby, as far as possible, to save them from the destructive ravages of that disease.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be the duty of the several Indian Agents and Sub-Agents, under the direction of the Secretary of War, to take such measures as he shall deem most efficient, to convene the Indian tribes in their respective towns, or in such other places and numbers, and at such seasons as shall be most convenient to the Indian population, for the purpose of arresting the progress of small pox among the several tribes by vaccination.

SECT. 2. *And be it further enacted,* That the Secretary of War be, and he hereby is, empowered to employ as many Physicians or Surgeons, from the army or resident on the frontier near the point where their services shall be required, as he may find necessary for the execution of this act; and, if necessary, two competent persons to conduct the Physicians to the remote Indians who are infected, or may be in immediate danger of being infected, with the small pox, whose compensation shall be six dollars per day, and six men, whose compensation shall be twentyfive dollars per month.

SECT. 3. *And be it further enacted,*

That it shall be the duty of the Secretary of War, to cause all Indian Agents to be supplied with genuine vaccine matter; and all Agents and Sub-Agents shall use all proper means to persuade the Indian population to submit to vaccination.

SECT. 4. *And be it further enacted,* That all Agents, Sub-Agents, Physicians and Surgeons, employed in the execution of this act, shall make monthly returns or reports of their proceedings to the War Department. And the Secretary thereof shall submit to Congress, on or before the first of February next, a general report of all proceedings in the premises.

SECT. 5. *And be it further enacted,* That, to carry this act into effect, the sum of twelve thousand dollars be appropriated out of any moneys in the Treasury not otherwise appropriated.

CHAP. 76. An Act confirming to Joshua Kennedy, his claim to a tract of land in the city of Mobile.

CHAP. 77. An Act for altering the time of holding the District Court of the United States for the District of Indiana.

CHAP. 78. An Act to extend the Patent of Jethro Wood.

CHAP. 79. An Act for giving effect to a commercial arrangement between the United States and the Republic of Colombia.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That vessels of the Republic of Colombia, and their cargoes, whether of foreign or domestic produce or manufacture, which shall come direct from the ports of that nation to the United States, shall pay no greater duties on importation; anchorage, tonnage, or any other kind, than are now, or hereafter may be, levied on the vessels of the United States.

SECT. 2 *And be it further enacted,* That the restriction of coming direct from a port in Colombia, contained in the preceding section, shall be taken off, as soon as the President shall receive satisfactory evidence, that a like restriction is taken off from vessels of the United States in the ports of the Republic of Colombia, and shall make known the same by his proclamation declaring the fact.

SECT. 3. *And be it further enacted,* That if the President of the United States shall at any time receive satisfactory information that the privileges allowed or which may be allowed to American vessels and their cargoes in the ports of Colombia, corresponding with those, extended, or to be extended by this act, to Colombian vessels and their cargoes in the ports of the United States, have been revoked or annulled, he is hereby authorized, by proclamation, to suspend the operation of either or both of the provisions of this act, as the case may be, and to withhold any or all the privileges allowed, or to be allowed, to Colombian vessels or their cargoes,

CHAP. 80. An Act authorizing the revision and extension of the rules and regulations of the Naval service.

CHAP. 81. An Act to revive and continue in force 'An act for the relief of the representatives of John Donelson, Stephen Heard, and others.'

CHAP. 82. An Act for the relief of Richard G. Morris.

CHAP. 83. An Act for the relief of Joseph Bogy.

CHAP. 84. An Act for the relief of the Miami Exporting Company.

CHAP. 85. An Act for the relief of Allen W. Hardie.

CHAP. 86. An Act for the relief of Prosper Marigny.

CHAP. 87. An Act for the relief of Arnaud Lanaux.

CHAP. 88. An Act for the relief of Joseph Soniat Dufossat.

CHAP. 89. An Act for the relief of John H. Thomas, claiming under Antoine Patin.

CHAP. 90. An Act for the relief of Celestin Chiapella.  
Approved, May 19, 1832.

CHAP. 91. An Act for the apportionment of Representatives among the several States, according to the fifth census.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Con-*



*gress assembled*, That from and after the third day of March, one thousand eight hundred and thirtythree, the House of Representatives shall be composed of members, elected agreeably to a ratio of one representative for every fortyseven thousand and seven hundred persons in each State, computed according to the rule prescribed by the Constitution of the United States, that is to say, within the State of Maine, eight; within the State of New Hampshire, five; within the State of Massachusetts, twelve; within the State of Rhode Island, two; within the State of Connecticut, six; within the State of Vermont, five; within the State of New York, forty; within the State of New Jersey, six; within the State of Pennsylvania, twenty-eight; within the State of Delaware, one; within the State of Maryland, eight; within the State of Virginia, twentyone; within the State of North Carolina, thirteen; within the state of South Carolina, nine; within the State of Georgia, nine; within the State of Kentucky, thirteen; within the State of Tennessee, thirteen; within the State of Ohio, nineteen; within the State of Indiana, seven; within the State of Mississippi, two; within the State of Illinois, three; within the State of Louisiana, three; within the State of Missouri, two; and within the State of Alabama, five.

CHAP. 92. An Act to alter the time of holding the District Court of the United States for the western district of Louisiana.

CHAP. 93. An Act to authorize the removal of the Land Office from Mount Salus in the State of Mississippi, and to remove the Land Office from Franklin to Fayette in the State of Missouri.

CHAP. 94. An Act for the relief of De Garmo Jones.

CHAP. 95. An Act for the relief of George J. Knight.

CHAP. 96. An Act for the relief of the heirs of William Vawters.

CHAP. 97. An Act for the relief of the heirs of Doctor Samuel Kennedy.

CHAP. 98. An Act for the relief of John Roberts, late Major of Infantry, in the war of the Revolution.

CHAP. 99. An Act for the relief of the legal representative of Rignald, alias Reynold, Hillary.

Approved, May 25, 1832.

CHAP. 100. An Act for the relief of the heirs and residuary legatees of William Carter, late of the State of Virginia, deceased.

CHAP. 101. An Act for the relief of John Hughes.

CHAP. 102. An Act for the relief of Ann D. Baylor.

CHAP. 103. An Act for the relief of Edmund Brooke.

CHAP. 104. An Act to exempt the vessels of Portugal from the payment of duties on tonnage.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no duties upon tonnage shall be hereafter levied or collected of the vessels of the kingdom of Portugal: *Provided always*, That whenever the President of the United States, shall be satisfied that the vessels of the United States are subjected in the ports of the kingdom of Portugal, to payment of any duties of tonnage, he shall, by proclamation declare the fact, and the duties now payable by the vessels of that kingdom, shall be levied and paid, as if this act had not been passed.

CHAP. 105. An Act to extend the limits of Georgetown, in the District of Columbia.

CHAP. 106. An Act for improving Pennsylvania Avenue, supplying the Public Buildings with water, and for paving the walk from the western gate to the Capitol with flagging.

CHAP. 107. An Act to amend an act, entitled 'An act to enlarge the powers of the several corporations of the District of Columbia.'

CHAP. 108. An Act supplementary to 'An Act to incorporate the Trustees of the Female Orphan Asylum of Georgetown, and the Washington City Asylum, in the District of Columbia.'

Approved, May 25, 1832.

CHAP. 109. An Act making appro-

priations for the Indian Department for the year one thousand eight hundred and thirtytwo.

CHAP. 110. An Act to aid the vestry of Washington parish in the erection of a keeper's house, and the improvement and security of the ground allotted for the interment of members of Congress, and other public officers.

CHAP. 111. An Act in relation to the Penitentiary for the District of Columbia.

CHAP. 112. An Act for quieting possessions, enrolling conveyances and securing the estates of purchasers within the District of Columbia.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if any person or persons, seized or possessed of, or holding any estate or interest in any lands, tenements or hereditaments, lying and being within the District of Columbia, shall execute and acknowledge a deed for the conveyance of such estate or interest, or for declaring or limiting any use or trust in and of the same, before any judge of a court of record and of law of the State and county in which such person or persons may be, or before any chancellor of any such State, or before any Judge of the Supreme, Circuit, District or Territorial Courts of the United States, or before any two Justices of the Peace of the State, District or Territory and county in which such person or persons may be; and such Judge, Chancellor or Justices shall annex to such a deed, a certificate, under his or their hands of the execution and acknowledgment thereof, and that the grantor or grantors was or were known to him or them, or that his, her or their identity had been satisfactorily proved, and the Register, Clerk or Prothonotary of such Court or county, shall also certify under his hand and the seal of his office, that the Judge, Chancellor, or Justices, is or are, was or were such at the time of the execution and acknowledgment thereof; or if any such person or persons, seized or possessed as aforesaid, shall be in some foreign country, and shall execute and acknowledge any such deed before any Judge or Chancellor of any Court, master or master extraordinary, in chancery, or notary public, in such foreign country; and such execution and acknowledgment, and also the identity of the grantor or

grantors shall be certified upon, or annexed to, such deed, under the hand and seal of any such judge, chancellor, master or master extraordinary, or notary public, and such deed, so executed, acknowledged and certified in the several and respective modes aforesaid, shall be recorded among the land records of the county of Washington, or the county of Alexandria in the District of Columbia, within six calendar months from the day of its date, if executed and acknowledged within the United States or the Territories thereof, or within twelve calendar months from the day of its date, if executed and acknowledged in some foreign country; such deed shall be good and effectual for the purpose or purposes therein mentioned.

SECT. 2. *And be it further enacted,* That if any feme covert in whom such estate or interest may be, shall be a party with her husband, executing such deed, or shall only be relinquishing her right of dower, in or to such estate or interest, and the judge, chancellor, justices, master or master extraordinary in chancery or notary public, aforesaid, before whom the same may be executed and acknowledged, shall make the contents thereof known to her, and shall examine her, out of the presence and hearing of her husband, whether she doth make her acknowledgment of the same voluntarily, and without being induced to do so by fear or threats of, or ill usage, by her husband, or fear of his displeasure; and such examination and acknowledgment, and also the identity of the party shall be certified in the mode prescribed in the first section of this act, according to the place or country where such feme covert shall be at the time of such examination and acknowledgment, and such deed shall be recorded within the several and respective periods herein before mentioned; the same shall be good and available for the purposes therein mentioned, and thereby intended.

SECT. 3. *And be it further enacted,* That the clerks of the circuit court of the District of Columbia for the counties of Washington and Alexandria, respectively, are hereby, authorized to record any deed or conveyance, executed and authenticated agreeably to the provisions of this act

Approved, May 31, 1832.

CHAP. 113. An Act vesting in the Corporation of the City of Washington, all the rights of the Washington Canal Company; and for other purposes.

CHAP. 114. An Act changing the times of holding the Courts in the District of Columbia.

CHAP. 115. An Act defining the qualifications of voters in the Territory of Arkansas.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every free white male citizen of the United States of the age of twentyone years, who shall have resided in the Territory of Arkansas for the term of six months next preceding any general or special election, shall have the privilege of voting in the election district where he shall reside, and not elsewhere, for all elective officers of said Territory.

CHAP. 116. An Act for the relief of James W. Hill, Elijah Hill, and Philip Barnes.

CHAP. 117. An Act for the relief of William R. Pickett.

CHAP. 118. An Act for the relief of Thomas and James Massingill.

CHAP. 119. An Act for the relief of Captain John Burnham.

CHAP. 120. An Act for the relief of Robert Kaine, of Buffalo, in the State of New York.

CHAP. 121. An Act for the relief of James McCarty.

CHAP. 122. An act for the relief of Joseph W. Torrey.  
Approved, May 31, 1832.

CHAP. 123. An Act making appropriations for the Indian annuities, and other similar objects, for the year one thousand eight hundred and thirtytwo.

Approved, June 4, 1832.

CHAP. 124. An Act making appropriations in conformity with the stipulations of certain treaties with the Creeks, Shawnees, Ottoways, Senecas, Wyandots, Cherokees, and Choctaws.

CHAP. 125. An Act for the benefit of Doctor Eliakim Crosby.  
Approved, June 4, 1832.

CHAP. 126. An Act Supplementary

to the ' Act for the relief of certain surviving officers and soldiers of the Revolution.'

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each of the surviving officers, non-commissioned officers, musicians, soldiers and Indian spies, who shall have served in the continental line, or State troops, volunteers or militia, at one or more terms, a period of two years, during the war of the revolution, and who are not entitled to any benefit under the act for the relief of certain surviving officers and soldiers of the revolution, passed the fifteenth day of May, eighteen hundred and twenty-eight, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in the said line, according to his rank, but not exceeding in any case, the pay of a captain, in the said line; such pay to commence from the fourth day of March, one thousand eight hundred and thirtyone, and shall continue during his natural life; and that any such officer, non-commissioned officer, musician, or private, as aforesaid, who shall have served in the continental line, State troops, volunteers or militia, a term or terms in the whole less than the above period, but not less than six months, shall be authorized to receive out of any unappropriated money in the Treasury, during his natural life, each according to his term of service, an amount bearing such proportion to the annuity granted to the same rank for the service of two years, as his term of service did to the term aforesaid; to commence from the fourth day of March, one thousand eight hundred and thirtyone.

SECT. 2. *And be it further enacted,* That no person, receiving any annuity or pension under any law of the United States providing for revolutionary officers and soldiers, shall be entitled to the benefits of this act, unless he shall first relinquish his further claim to such pension; and in all payments under this act, the amount which may have been received under any other act as aforesaid, since the date at which the payments under this act shall commence, shall first be deducted from such payment.

SECT. 3. *And be it further enacted,* That the pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer, non commissioned office, musician or



private, entitled thereto, or his or their authorized attorney, at such places and times as the Secretary of the Treasury may direct, and that no foreign officer shall be entitled to said pay, nor shall any officer, non-commissioned officer, musician or private, receive the same until he furnish the said Secretary satisfactory evidence that he is entitled to the same, in conformity to the provisions of this act; and the pay hereby allowed shall not be in any way transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer, non-commissioned officer, musician or soldier entitled to the same.

SECT. 4. *And be it further enacted,* That so much of the said pay as accrued before the approval of this act, shall be paid to the person entitled to the same as soon as may be, in the manner and under the provisions above mentioned; and the pay which shall accrue thereafter shall be paid semi-annually, in the manner above directed; and, in case of the death of any person embraced by the provisions of this act, or of the act to which it is supplementary, during the period intervening between the semi-annual payments directed to be made by said acts, the proportionate amount of pay which shall accrue between the last preceding semi-annual payment, and the death of such person, shall be paid to his widow, or if he leave no widow, to his children.

SECT. 5. *And be it further enacted,* That the officers, non-commissioned officers, mariners, or marines, who served for a like term in the naval service, during the revolutionary war, shall be entitled to the benefits of this act, in the same manner as is provided for the officers and soldiers of the army of the revolution.

Approved, June 7, 1832.

CHAP. 127. An Act authorizing the Secretary of the Treasury to permit a wharf to be built near the site of the light-house, on Stratford point, in the State of Connecticut.

CHAP. 128. An Act to create the office of Surveyor of Public Lands for the Territory of Arkansas.

CHAP. 129. An Act granting to the Territory of Arkansas, one thousand acres of land, for the erection of a court-house and jail at Little Rock.

CHAP. 130. An Act for the re-appropriation of certain unexpended balances of former appropriations; and for other purposes.

CHAP. 131. An Act to authorize the President to raise mounted volunteers for the defence of the frontier.

CHAP. 132. An Act for the relief of the heirs and legal representatives of Dr Samuel J. Axson, deceased.

CHAP. 133. An Act for the relief of Jacob Reinf, otherwise called Jacob Kemf.

CHAP. 134. An Act for the relief of the legal representatives of John McHugh.

CHAP. 135. An Act for the relief of John Knight.  
Approved, June 15, 1832.

CHAP. 136. An Act to authorize the Secretary of the Treasury to compromise with the Trustee of the late firm of Thomas H. Smith and Son and their securities, the claims of the United States upon the said firm and their securities.

CHAP. 137. An Act for the relief of the representatives of David Dardin, deceased.

CHAP. 138. An Act for the relief of Ichabod Ward.

CHAP. 139. An Act for the relief of Hopkins Rice.

CHAP. 140. An Act to authorize the inhabitants of the State of Louisiana to enter the back lands.

SECT. 1. *Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled,* That every person, who, either by virtue of a French or Spanish grant, recognised by the laws of the United States, or under a claim confirmed by the commissioners appointed for the purpose of ascertaining the rights of persons claiming lands in the State of Louisiana, or by virtue of any title derived from the United States, owns a tract of land bordering on any river, creek, bayou or water course, in the said territory, and not exceeding in depth forty arpans, French measure;

shall he entitled to a preference in becoming the purchaser of any vacant tract of land adjacent to, and back of, his own tract, not exceeding forty arpens, French measure in depth, nor in quantity of land, that which is contained in his own tract; at the same price and on the same terms and conditions, as are, or may be, provided by law for the other public lands in the said State. And the Surveyor General for the State of Louisiana, shall be, and he is hereby, authorized to cause to be surveyed the tracts claimed by virtue of this section; and in all cases where, by reason of bends in the river, lake, creek, bayou, or water course, bordering on the tract, and of adjacent claims of a similar nature, each claimant cannot obtain a tract equal in quantity to the adjacent tract already owned by him, to divide the vacant land applicable to that object between the several claimants, in such manner as to him will appear most equitable: *Provided however*, That the right of preëmption granted by this section, shall not extend so far in depth as to include lands fit for cultivation, bordering on another river, creek, bayou or water course. And every person entitled to the benefit of this section, shall, within three years after the date of this act, deliver to the register of the proper land office, a notice, in writing, stating the situation and extent of the tract of land he wishes to purchase; and shall also make the payment and payments for the same at the time and times which are or may be prescribed by law for the disposal of the other public lands in the said State, the time of his delivering the notice aforesaid being considered as the date of the purchase: *Provided, also*, That all notices of claims shall be entered, and the money paid thereon, at least three weeks before such period as may be designated by the President of the United States, for the public sale of the lands in the township in which such claims may be situated, and all claims not so entered shall be liable to be sold as other public lands. Whenever it shall be necessary to re-survey the public lands, in order to enable persons entitled to avail themselves of the provisions of this act, the expenses of such re-survey shall be paid by the person or persons, who shall enter the lands so re-surveyed under this act, at the time he or they shall pay the price of such land to the Receiver of Public Money. And if any such person shall fail to deliver such notice within the said period of three years or to make such payment or payments at the time above mentioned, his right of pre-emp-

tion shall cease, and become void; and the land may, thereafter, be purchased by any other person, in the same manner, and on the same terms, as are, or may be provided by law for the sale of other public lands in the said State.

CHAP. 141. An Act to establish certain post roads, and to alter and discontinue others; and for other purposes.

Approved, June 15, 1832.

CHAP. 142. An Act for the benefit of the Alexandria Canal Company.

CHAP. 143. An Act for the relief of John Heard, Junior, surviving assignee of Amasa Davis, Junior.

CHAP. 144. An Act establishing land districts in the Territory of Arkansas.

CHAP. 145. An Act for the relief of Richard W. Steele, a soldier in the late war.

CHAP. 146. An Act for the relief of Hannah McKim.

CHAP. 147. An Act for the relief of Dorothy Wells.

CHAP. 148. An Act to confirm certain claims to land in the Territory of Arkansas.

CHAP. 149. An Act for the relief of the inhabitants of Terre Aux Bœufs.

Approved, June 25, 1832.

CHAP. 150. An Act to increase the number of surgeons and assistant surgeons in the army of the United States.

CHAP. 151. An Act further to extend the pension heretofore granted to the widows of persons killed, or who died in the naval service.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where provision has been made by law, for the five years half pay to widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States; and, also, in all cases where provision has been made for extending the term for five years, in addi-

tion to any term of five years, the said provision shall be, and is hereby, further extended for an additional term of five years, so far as respects widows only, to commence at the end of the current or last expired term of five years in each case, respectively; which pension shall be paid out of the fund heretofore provided by law. And the pension herein continued shall cease for the causes mentioned in the laws granting the same, respectively.

SECT. 2. *And be it further enacted,* That the provisions of this act shall be extended to the widows of all those who may have died by reason of wounds received during the war.

CHAP. 152. An Act making provision for the sale and disposition of the public grounds in the cities of St Augustine and Pensacola, and to reserve certain lots and buildings for public purposes, and to provide for their repair and preservation.

Approved, June 28, 1832.

CHAP. 153. An Act making appropriations for certain internal improvements for the year one thousand eight hundred and thirtytwo.

CHAP. 154. An Act to authorize the President of the United States to direct transfers of appropriations in the naval service, under certain circumstances.

CHAP. 155. An Act to authorize the Legislature of the State of Indiana to sell and convey certain lands granted to said State for the use of the people thereof.

CHAP. 156. An Act for the relief of Ephraim Whltaker.

CHAP. 157. An Act for the relief of John Lacy.

CHAP. 158. An Act for the relief of William McCormick.

CHAP. 159. An Act for the relief of Horatio Gates Spafford.

CHAP. 160. An Act directing letters patent to be issued to Thomas Knowles, James Lang, and William Steels, respectively.

CHAP. 161. An Act to provide for carrying into effect the treaty of limits between the United States of

America and the United Mexican States.

CHAP. 162. An Act concerning patents for useful inventions.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,* That it shall be the duty of the Secretary of State, annually, in the month of January, to report to Congress, and to publish in two of the newspapers printed in the city of Washington, a list of all the patents for discoveries, inventions, and improvements, which shall have expired within the year immediately preceding, with the names of the patentees, alphabetically arranged.

SECT. 2. *And be it further enacted,* That application to Congress to prolong or renew the term of a patent, shall be made before its expiration, and shall be notified at least once a month, for three months before its presentation, in two newspapers printed in the city of Washington, and in one of the newspapers in which the laws of the United States shall be published in the State or Territory in which the patentee shall reside. The petition shall set forth particularly the grounds of the application. It shall be verified by oath; the evidence in its support may be taken before any judge or justice of the peace, it shall be accompanied by a statement of the ascertained value of the discovery, invention, or improvement, and of the receipts and expenditures of the patentee, so as to exhibit the profit or loss arising therefrom.

SECT. 3. *And be it further enacted,* That wherever any patent which has been heretofore, or shall be hereafter, granted to any inventor in pursuance of the act of Congress, entitled 'An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose, passed on the twenty-first day of February in the year of our Lord, one thousand seven hundred and ninetythree, or of any of the acts supplementary thereto, shall be invalid or inoperative, by reason that any of the terms or conditions prescribed in the third section of the said first mentioned act, have not, by inadvertence, accident or mistake, and without any fraudulent or deceptive intention, been complied with on the part of the said inventor, it shall be lawful for the Secretary of State, upon the surrender to him of such patent to cause a new patent to be granted



to the said inventor for the same invention for the residue of the period, then unexpired, for which the original patent was granted, upon his compliance with the terms and conditions prescribed in the said third section of the said act. And, in case of his death, or any assignment by him made of the same patent, the like right shall vest in his executors and administrators, or assignee or assignees: *Provided however*, That such new patent, so granted, shall, in all respects, be liable to the same matters of objection and defence as any original patent granted under the said first mentioned act. But no public use or privilege of the invention so patented, derived from or after the grant of the original patent, either under any special license of the inventor, or without the consent of the patentee that there shall be a free public use thereof, shall, in any manner, prejudice his right of recovery for any use or violation of his invention after the grant of such new patent as aforesaid.

CHAP. 163. An Act for the sale of the unlocated lots in the fifty quarter townships in the United States military district, in the State of Ohio, reserved to satisfy warrants granted to individuals for their military services.

Approved, July 3, 1832.

CHAP. 164. An Act to authorize the surveying and laying out a road from Detroit to the mouth of Grand River of Lake Michigan, in the Michigan Territory, and for the survey of canal routes in the Territory of Florida.

CHAP. 165. An Act to authorize the surveying and making of a road from La Plaisance Bay, in the Territory of Michigan, to intersect the Chicago road.

CHAP. 166. An Act for the final adjustment of the claims to lands in the southeastern land district of the State of Louisiana.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person or persons, claiming lands within the limits of the southeastern land district of the State of Louisiana, agreeably to the provisions of the laws heretofore enacted for the adjustment of land claims in that part

of the Territory of Orleans or State of Louisiana, but whose titles have not been heretofore confirmed, may, at any time prior to the first day of July, one thousand eight hundred and thirtythree present their claims, together with the written evidence and other testimony in support of the same to the register and receiver of the land office at New Orleans; and it shall be the duty of the said register and receiver to record, in a book to be kept for that purpose, the notice of every claim so preferred, together with the evidence; for which service they shall receive a compensation from the claimants, at the rate of twentyfive cents for every hundred words.

SECT. 2. *And be it further enacted*, That the said register and receiver shall at or before the beginning of the next session of Congress thereafter, make to the Secretary of the Treasury a report of the claims which may have been preferred before them, together with the testimony, their opinion of the validity of the claims, and such other information respecting them as may be in their possession; which report shall, by the Secretary of the Treasury, be laid before Congress as soon as practicable, with his opinion touching the validity of the respective claims: *Provided*, That no claim shall be therein recommended for confirmation, for more than the quantity contained in a league square.

SECT. 3. *And be it further enacted*, That the sales of land in the said southeastern district, by public auction or private entry, shall be suspended until after the first day of July, one thousand eight hundred and thirtythree.

SECT. 4. *And be it further enacted*, That all persons who, before the first Monday of November, one thousand eight hundred and thirty, held lands in the said southeastern district, by claims unconfirmed, but which were embraced in the principles of the previous laws for the adjustment of claims in that part of the territory of Orleans or State of Louisiana, which lands may have been sold at the public sale which took place at New Orleans on the first Monday of November, one thousand eight hundred and thirty, under the President's proclamation of the fifth June, one thousand eight hundred and thirty, may avail themselves of this act as though their lands had not been sold; and the said Register and receiver shall make a separate report of the cases of this class; and if it shall appear to the Secretary of the Treasury that all or any of the

claims contained therein, although unconfirmed, are embraced in the intent and meaning of the previous laws for the adjustment of land claims as aforesaid, he is hereby authorized to repay to the persons, or the legal representatives of the persons who purchased, such sum or sums as they may have paid for lands of this description, bought by them at the said public sale.

SECT. 5. *And be it further enacted*, That, in addition to the compensation herein before provided, the said register and receiver shall receive, for the services required of them by this act, the sum of five hundred dollars each, to be paid by the Secretary of the Treasury out of any moneys in the Treasury not otherwise appropriated.

CHAP. 167. An Act for the relief of David Brooks.

CHAP. 168. An Act for the relief of Samuel Dale.

CHAP. 169. An Act for the relief of Aaron Snow.

CHAP. 170. An Act for the further relief of John H. Wendell, a captain in the Revolutionary war.

CHAP. 171. An Act for the relief of William P. Gibbs, executor of Benjamin Gibbs, of Kentucky, deceased.

CHAP. 172. An Act to authorize the Governor of the Territory of Arkansas to select ten sections of land granted to said territory for the purpose of building a legislative house for said Territory, and for other purposes.

Approved, July 4, 1832.

CHAP. 173. An Act to provide for liquidating and paying certain claims of the State of Virginia.

CHAP. 174. An Act to provide for the appointment of a commissioner of Indian Affairs, and for other purposes.

CHAP. 175. An Act to enable the President to extinguish Indian title within the State of Indiana, Illinois, and Territory of Michigan.

CHAP. 176. An Act to extend the period to which the charter of the Provident Association of clerks was limited.

CHAP. 177. An Act for the relief of Edward S. Meeder.

CHAP. 178. An Act granting a pension to William Scott.

CHAP. 179. An Act for the relief of John Bryant and George W. Howard.

CHAP. 180. An Act for the final adjustment of private land claims in Missouri.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the Recorder of land titles in the State of Missouri, and two commissioners to be appointed by the President of the United States, by and with the advice and consent of the Senate, to examine all the unconfirmed claims to land in that State, heretofore filed in the office of the said Recorder, according to law, founded upon any incomplete grant, concession, warrant, or order of survey, issued by the authority of France or Spain, prior to the tenth day of March one thousand eight hundred and four; and to class the same so as to show, first, what claims, in their opinion, would in fact have been confirmed, according to the laws, usages, and customs of the Spanish Government, and the practice of the Spanish authorities under them, at New Orleans, if the Government under which said claims originated had continued in Missouri; and secondly what claims in their opinion, are destitute of merit, in law or equity, under such laws, usages, customs, and practice of the Spanish authorities aforesaid; and shall also assign their reasons for the opinions so to be given. And in examining and classing such claims, the Recorder and Commissioners shall take into consideration, as well the testimony heretofore taken by the Boards of Commissioners and Recorder of land titles upon those claims, as such other testimony as may be admissible under the rules heretofore existing for taking such testimony before said boards and Recorder: and all such testimony shall be taken within twelve months after the passage of this act.

SECT. 2. *And be it further enacted*, That the office of the Recorder shall be open for the purposes of such examination for the term of two years from the date of the organization of the board of Commissioners and no longer; and the Recorder and Commissioners shall pro-

ceed in the examination in a summary manner, with or without any new application of the claimants; and shall at the commencement of each session of Congress during said term of examination, lay before the Commissioner of the General Land Office a report of the claims so classed, stating therein the date and quantity of each, whether there be any, and what, conflicting claims, and the evidence upon which each claim depends, and the authority and power under which the said claim was granted by the Spanish or French Governor, Commandant or sub-delegate, to be laid before Congress for their final decision upon the claims contained in such first class.

SECT. 3. *And be it further enacted*, That from and after the final report of the Recorder and Commissioners the lands contained in the second class shall be subject to sale as other public lands; and the lands contained in the first class shall continue to be reserved from sale as heretofore, until the decision of Congress shall be made thereon: and if the decision of Congress shall be against the claims, or any of them, the lands so decided against shall be, in like manner, subject to sale as other public lands: *Provided*, That actual settlers being housekeepers upon such lands as are rejected claiming to hold under such rejected claim, or such as may waive their grant, shall have the right of pre-emption to enter within the time of the existence of this act not exceeding the quantity of their claim, which in no case shall exceed six hundred and forty acres, to include their improvements, who shall give notice and prove their right of pre-emption, and in all things conform to the regulations as have been or may be prescribed by the Secretary of the Treasury under the existing laws relative to pre-emption; and it shall be the duty of the Secretary of the Treasury immediately to forward to the several land offices in said State, the manner in which all those who may wish to waive their several grants or claims and avail themselves of the right of pre-emption, shall renounce or release their said grants.

SECT. 4. *And be it further enacted*, That the Recorder and Commissioners shall each receive the sum of fifteen hundred dollars per annum, to be paid quarter yearly by the United States, in full compensation for their services under this act; and may, when necessary, employ an interpreter of the French or Spanish language, for a reasonable com-

pensation, to be allowed by the Secretary of the Treasury, and paid by the United States.

SECT. 5. *And be it further enacted*, That it shall be lawful for the heirs of Carlos de Villemont to submit the evidence of their claim to a tract of land in Arkansas Territory, to a place called 'Chicot point' to the said Recorder and Commissioners, and it shall be the duty of said Recorder and Commissioners to report upon said claim in the manner that other claims provided for in this act, are to be reported and proceeded upon.

CHAP. 181. An Act to amend an act entitled 'An act for the relief of purchasers of the public lands that have reverted for non-payment of the purchase money,' passed twentythird day of May, one thousand eight hundred and twentyeight.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where public lands have been purchased, on which a further credit has been taken under the provisions of the act of the second March, one thousand eight hundred and twentyone, or under any other act of Congress granting relief to the purchasers of the public lands, and have reverted to the United States for failure to pay the purchase money, or have been sold by the United States by reason of such failure to pay, it shall be the duty of the Register of the land office where the purchase was made, to issue upon application, to the person or persons legally entitled to the benefit of payments made previous to such reversion or sale, his, her or their legal representatives or assigns, a certificate for the amount so paid and not refunded, which shall be received and credited as cash in payment of any public lands that may hereafter be sold by the United States, in the State or Territory in which such original purchase was made.

SECT. 2. *And be it further enacted*, That it shall be the duty of the Commissioner of the General Land Office and of the Registers as aforesaid, to conform to, and be governed by, the provisions of the act aforesaid, to which this is an amendment, passed the twentythird day of May, one thousand eight hundred and twentyeight as aforesaid.

SECT. 3. *And be it further enacted*, That where the lands have been relinquished to the United States under the



provisions of the act of second March, one thousand eight hundred and twenty-one, as aforesaid, or other acts of Congress, and the money paid thereon has, in part been applied in the payment of other lands, if the payment so made on lands retained be less than the amount paid on the relinquished lands when such excess exceeds the sum of ten dollars, it shall be the duty of the Register of the land office where the transfer of payment was made, to issue a certificate for such excess to the person or persons entitled thereto, and in the manner pointed out in the first section of this act; which certificate shall be received in payment of the purchase of the public lands as pointed out in said section.

SECT. 4. *And be it further enacted*, That on proof being made, satisfactory to the Secretary of the Treasury, that any certificate issued under this act, or that has been, or may be, issued under the said act of the twentythird of May, Anno Domini one thousand eight hundred and twentyeight, has been lost or destroyed by accident, he is hereby authorized to issue to the legal owner, thereof, a duplicate of such original certificate, which shall be, in all respects as available to the owner, as the original certificate would have been.

CHAP. 182. An Act to alter the times of holding the district court of the United States for the State of Illinois.

CHAP. 183. An Act for the relief of Timothy Risley.

CHAP. 184. An Act to authorize the Secretary of the Treasury to compromise the claim of the United States on the Farmers and Mechanics Bank of Indiana.

CHAP. 185. An Act for the relief of Joseph Chamberlain.

CHAP. 186. An Act to finish the rebuilding of the frigate Macedonian.

CHAP. 187. An Act to provide for paying certain arrearages for surveys made by naval officers, and for other purposes.

CHAP. 188. An Act to provide for rebuilding the frigate Java and the sloop Cyane.

CHAP. 189. An Act to provide for completing the Navy Hospital at

Norfolk, and the Navy Asylum at Philadelphia, and to furnish them in part.

CHAP. 190. An Act authorizing the construction of Naval Hospitals at the Navy Yards at Charlestown, Massachusetts, Brooklyn, New York, and Pensacola.

CHAP. 191. An Act to carry into effect the act to provide for a survey of the coast of the United States.

CHAP. 192. An Act to provide iron tanks for the use of the Navy of the United States.

CHAP. 193. An Act to establish additional land districts in the State of Alabama, and for other purposes.

CHAP. 194. An Act for the regulation of the navy and Privateer Pension and Navy Hospital Funds.

CHAP. 195. An Act for the relief of John Anderson, assignee of Jean B. Jerome and George McDougall.

CHAP. 196. An Act to extend the provisions of the act, entitled 'An act regulating commercial intercourse with the islands of Martinique and Guadaloupe,' approved the ninth of May, one thousand eight hundred and twentyeight, and to refund the tonnage duties on the French ship Victorine.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled*, That the privileges which are extended by the act, entitled 'An act regulating commercial intercourse with the islands of Martinique and Guadaloupe,' approved the ninth of May, one thousand eight hundred and twentyeight to French vessels laden and coming direct from those islands, shall be extended to vessels coming in the same manner, in ballast, subject, nevertheless, to the proviso contained in said act.

SECT. 2. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to refund, out of any money in the Treasury not otherwise appropriated, such amount of tonnage duty as may have been collected, by the collector of the port of New York, upon the French ship Victorine, and which is referred to in the letter of the French

Minister to the Secretary of State, dated the fourth of November last.

Approved, July 13, 1832.

CHAP. 197. An Act giving the assent of Congress to an act of the Legislature of North Carolina, entitled 'An act to incorporate a company entitled the Roanoke Inlet Company, and for other purposes;' and also, to an act amendatory thereof, which passed in one thousand eight hundred and twentyeight.

CHAP. 198. An Act making appropriations for a custom-house in the city of New York, and for other purposes.

CHAP. 199. An Act to carry into effect the convention between the United States and his Majesty the King of the French, concluded at Paris on the fourth of July, one thousand eight hundred and thirty one.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States, by and with the advice and consent of the Senate, shall appoint three commissioners, who shall form a board, whose duty it shall be to receive and examine all claims which may be presented to them under the convention between the United States and France, of the fourth of July, one thousand eight hundred and thirtyone, which are provided for by the said convention, according to the provisions of the same, and the principles of justice, equity, and the law of nations. The said board shall have a secretary, versed in the English, French, and Spanish languages, and a clerk, both to be appointed by the President, by and with the advice and consent of the Senate; and the commissioners, secretary, and clerk, shall, before they enter on the duties of their offices, take oath well and faithfully to perform the duties thereof.

SECT. 2. *And be it further enacted,* That the said commissioners shall be, and they are hereby, authorized to make all needful rules and regulations, not contravening the laws of the land, the provisions of this act, or the provisions of the said convention, for carrying their said commission into full and complete effect.

SECT. 3. *And be it further enacted,*

That the board so constituted shall meet on the first Monday of August next at the city of Washington; and, within two years from the time of its meeting, shall terminate its duties. And the Secretary of State is required forthwith after the passing of this act, to give notice of the said meeting; to be published in two newspapers in Washington, and in such other papers as he may think proper.

SECT. 4. *And be it further enacted,* That all records, documents, or other papers, which now are in, or hereafter, during the continuance of this commission, may come into the possession of the Department of State, in relation to such claims, shall be delivered to the commission aforesaid.

SECT. 5. *And be it further enacted,* That the compensation of the respective officers, for whose appointment provision is made by this act, shall not exceed the following sums, namely: to each of the said commissioners, at the rate of three thousand dollars per annum; to the secretary of the board at the rate of two thousand dollars per annum; and to the clerk at the rate of fifteen hundred dollars per annum. And the President of the United States shall be, and he is hereby, authorized to make such provision for the contingent expenses of the said commission, as shall appear to him reasonable and proper; and the said salaries and expenses shall be paid out of any money in the Treasury not otherwise appropriated.

SECT. 6. *And be it further enacted,* That the said commissioners shall report to the Secretary of State a list of the several awards made by them; a certified copy whereof shall be by him transmitted to the Secretary of the Treasury, who shall thereupon distribute, in rateable proportions, among the persons in whose favor the awards shall have been made, such moneys as may have been received into the Treasury in virtue of this act, according to the proportions which their respective awards shall bear to the whole amount then received, first deducting such sums of money as may be due the United States from said persons in whose favor said awards shall be made; and shall also cause certificates to be issued by the Secretary of the Treasury, in such form as he may prescribe, showing the proportion to which each may be entitled of the amount that may thereafter be received; and, on the presentation of the said certificates at the Treasury, as the

net proceeds of the general instalments payable by the French Government, shall have been received, such proportions thereof shall be paid to the legal holders of the said certificates.

SECT. 7. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause the several instalments, with the interest thereon payable to the United States in virtue of the said convention, to be received from the French Government, and transferred to the United States, in such manner as he may deem best, and the net proceeds thereof to be paid into the Treasury; and, on the payment of the proceeds of each of the said instalments there shall be set apart of the money in the Treasury, such further sum as would have been received from the net proceeds of such instalment, if the reservation stipulated by the fourth article of the said convention had not been deducted, and the moneys which may be thus set apart, together with those which may be received into the treasury under this act, shall be, and the same are hereby, appropriated, to satisfy the awards herein provided for.

SECT. 8. *And be it further enacted,* That all communications to or from the secretary of the board of commissioners, on the business of the commission, shall pass by mail free of postage.

SECT. 9. *And be it further enacted,* That, as soon as said commission shall be executed and completed, the records, documents, and all other papers, in the possession of the commission or its officers, shall be deposited in the office of the Secretary of State.

SECT. 10. *And be it further enacted,* That, for the term of ten years, from and after the second day of February, one thousand eight hundred and thirty-two, wines, the produce of France, shall be admitted into the United States on paying duties not exceeding the following rates on the gallon, (such as is at present used in the United States,) that is to say: six cents for red wine in casks, ten cents for white wine in casks, and twentytwo cents for wine of all sorts in bottles.

CHAP. 200. An Act to carry into effect certain Indian treaties.

CHAP. 201. An Act extending further the right of debenture to the port of Key West, and altering the limits of the district of Key West.

CHAP. 202. An Act authorizing the

entry of vessels and merchandize arriving from the Cape of Good Hope, or beyond the same, at the port of Edgartown, in Massachusetts.

CHAP. 203. An Act concerning the issuing of patents to aliens, for useful discoveries and inventions.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the privileges granted to the aliens described in the first section of the act, to extend the privilege of obtaining patents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees, approved April seventeenth, eighteen hundred; be extended, in like manner, to every alien, who, at the time of petitioning for a patent, shall be resident in the United States, and shall have declared his intention, according to law, to become a citizen thereof: *Provided,* That every patent granted by virtue of this act and the privileges thereto appertaining, shall cease and determine and become absolutely void without resort to any legal process to annul or cancel the same in case of a failure on the part of any patentee for the space of one year from the issuing thereof, to introduce into public use in the United States the invention or improvement for which the patent shall be issued; or in case the same for any period of six months after such introduction shall not continue to be publicly used and applied in the United States, or in case of failure to become a citizen of the United States, agreeably to notice given at the earliest period within which he shall be entitled to become a citizen of the United States.

Approved, July 13, 1832.

CHAP. 204. An Act to enforce the Quarantine Regulations.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if in the opinion of the Secretary of the Treasury, the revenue cutters, revenue boats, or revenue officers, employed or authorized to be employed for the purposes of the revenue, should be insufficient to aid in the execution of the quarantine and health laws of any State, or the regulations made pursuant thereto, the said Secretary may cause to be employed such ad-



ditional revenue boats and revenue officers as he may deem necessary for that purpose, the said revenue boats to be of such size and description as he may see proper. — This act to continue in force until the fourth of March, one thousand eight hundred and thirty three.\*

Approved, July, 13, 1832.

CHAP. 205. An Act to extend the time of issuing Military Land Warrants to officers and soldiers of the Revolutionary Army.

CHAP. 206. An Act authorizing the Secretary of War to pay to the Seneca tribe of Indians, the balance of an annuity, of six thousand dollars, usually paid to said Indians, and remaining unpaid for the year one thousand eight hundred and twenty-nine.

CHAP. 207. An Act concerning tonnage duty on Spanish Vessels.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no other or greater duty of tonnage be levied in the ports of the United States on vessels owned wholly by subjects of Spain, coming from a port in Spain, than shall, by the Secretary of the Treasury be ascertained to have been paid on American vessels in the ports of Spain previous to the twentieth October, one thousand eight hundred and seventeen.

SECT. 2. *And be it further enacted,* That vessels owned wholly by Spanish subjects, coming from any of the colonies of Spain, either directly, or after touching at any other port or place, shall pay, in the ports of the United States, the same rate of duty on tonnage that shall be levied on American vessels in the Spanish colonial port from whence such Spanish vessel shall have last departed; the said amount to be ascertained by the Secretary of the Treasury, who is hereby authorized, from time to time, to give directions to the officers of the customs of the United States for the collection of such duties, so as to conform the said duties to any variation that may take place in the duties levied on American vessels in such Spanish ports.

SECT. 3. *And be it further enacted,* That whenever the President shall be satisfied that the discriminating or countervailing duties of tonnage levied by any foreign nation on the ships or ves-

sels of the United States, shall have been abolished, he may direct that the tonnage duty on the vessels of such nation shall cease to be levied in the ports of the United States; and cause any duties of tonnage that may have been levied on the vessels of such foreign nation, subsequent to the abolition of its discriminating duties of tonnage to be refunded.

SECT. 4. *And be it further enacted,* That the second and third sections of this act shall be in force and take effect from and after the first day of January next.

CHAP. 208. An Act for the relief of George E. Tingle.

CHAP. 209. An Act for the relief of John Brickwood Taylor.

CHAP. 210. An Act for the relief of Joseph Kamber.

CHAP. 211. An Act for the relief of Joseph Elliott.

CHAP. 212. An Act for the relief of William Dickson.

CHAP. 213. An Act for the relief of Walter Cockburn.

CHAP. 214. An Act for the relief of Nathaniel A. Ware.

CHAP. 215. An Act for the relief of the legal representatives of Peter, Catharine, and Charles Surget.

CHAP. 216. An Act for the relief of Jacob C. Jordan.

CHAP. 217. An Act confirming the claim of Maria Holliday to a tract of land in Louisiana.

CHAP. 218. An Act for the relief of James W. Zachary.

CHAP. 219. An Act for the relief of the representatives of Elias Earle, deceased.

CHAP. 220. An Act for the relief of John H. Harrison.

CHAP. 221. An Act to increase and improve the Law Department of the Library of Congress.

CHAP. 222. An Act to provide for completing the removal and erection of the naval Monument.

CHAP. 223. An Act concerning certain officers of the Marine Corps.

CHAP. 224. An Act supplementary to the several acts making appropriation for the civil and military service during the year one thousand eight hundred and thirtytwo.

CHAP. 225. An Act providing for the purchase by the United States of the rights of the Washington Bridge company, in the District of Columbia, and for the erection of a public bridge on the site thereof.

CHAP. 226. An Act for the discharge of sundry judgments against the former Marshal of the Eastern District of Pennsylvania, and for the relief of J. and W. Lippincott and Company.

CHAP. 227. An Act to alter and amend the several acts imposing Duties on Imports.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the third day of March, one thousand eight hundred and thirtythree, so much of the act entitled 'An act in alteration of the several acts imposing duties on imports,' approved the nineteenth May, one thousand eight hundred and twentyeight, as is herein otherwise provided for, shall be repealed, except so far as the same may be necessary for the recovery and collection of all duties which shall have accrued under the said act; and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, which may have been incurred under the same.

SECT. 2. *And be it further enacted,* That, from and after the third day of March, one thousand eight hundred and thirtythree, in lieu of the duties now imposed by law, on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid, the following duties, that is to say:

First: Wool, unmanufactured, the value whereof, at the place of exportation, shall not exceed eight cents per pound, shall be imported free of duty; and if any wool so imported shall be fine wool mixed with dirt or other material, and thus reduced in value to eight cents per pound, or under, the appraisers shall appraise said wool at such price as in their opinion it would have cost had it not been so mixed, and a duty thereon

shall be charged in conformity with such appraisal; on wool, unmanufactured, the value whereof, at the place of exportation, shall exceed eight cents, shall be levied four cents per pound, and forty per centum ad valorem: *Provided,* That wool imported on the skin shall be estimated, as to weight and value, as other wool.

Second. On all milled and fulled cloth, known by the name of plains, kerseys, or kental cottons, of which wool shall be the only material, the value whereof shall not exceed thirtyfive cents a square yard, five per centum ad valorem; on worsted stuff goods, shawls and other manufactures of silk and worsted, ten per centum ad valorem; on worsted yarn, twenty per centum ad valorem; on woolen yarn, four cents per pound, and fifty per centum ad valorem; on mits, gloves, bindings, blankets, hosiery, and carpets and carpeting, twentyfive per centum, except Brussels, Wilton and treble ingrained carpeting, which shall be at sixtythree cents the square yard, all other ingrained and Venetian carpeting, at thirtyfive cents the square yard; and except blankets, the value whereof, at the place from whence exported, shall not exceed seventyfive cents each, the duty to be levied upon which, shall be five per centum ad valorem; on flannels, bockings, and baizes, sixteen cents the square yard; on coach laces, thirty five per centum; and upon merino shawls made of wool, all other manufactures of wool, or of which wool is a component part, and on ready made clothing, fifty per centum ad valorem.

Third. On all manufactures of cotton, or of which cotton shall be a component part, twentyfive per centum ad valorem, excepting cotton twist, yarn, and thread, which shall remain at the rate of duty fixed by the act to amend the several acts imposing duties on imports, of twentysecond May, one thousand eight hundred and twentyfour; *And provided,* That all manufactures of cotton, or of which cotton shall be a component part, not dyed, colored printed, or stained, not exceeding in value thirtycents the square yard, shall be valued at thirty cents per square yard, and if dyed, colored, printed, or stained, in whole or in part, not exceeding in value thirtyfive cents the square yard, shall be valued at thirtyfive cents per square yard; and on nankeens, imported direct from China, twenty per centum ad valorem.

Fourth. On all stamped, printed or painted floor cloths, fortythree cents a

square yard; on oil cloths of all kinds, other than that usually denominated patent floor cloth, twelve and a half cents the square yard; and on floor matting, usually made of flags or other materials, five per centum ad valorem.

Fifth. On iron, in bars or bolts, not manufactured in whole or in part by rolling, ninety cents per one hundred and twelve pounds.

Sixth. On bar and bolt iron made wholly or in part by rolling, thirty dollars per ton: *Provided*, That all iron in slabs, blooms, or other form less finished than iron in bars or bolts, and more advanced than pig iron, except castings, shall be rated as iron in bars or bolts, and pay duty accordingly.

Seventh. On iron in pigs, fifty cents per one hundred and twelve pounds on vessels of cast iron, not otherwise specified, one and a half cents per pound: on all other castings of iron, not otherwise specified, one cent per pound.

Eighth. On iron or steel wire, not exceeding number fourteen, five cents per pound; exceeding number fourteen, nine cents per pound; on silvered or plated wire, five per centum ad valorem; on cap or bonnet wire covered with silk, cotton, flaxen yarn or thread, manufactured abroad, twelve cents per pound.

Ninth. On round iron or brazier's rods, of three-sixteenths to eight-sixteenths of an inch diameter, inclusive, and on iron in nail or spike rods, or nail plates, slit, rolled, or hammered, and on iron in sheets, and hoop iron, and on iron, slit, rolled, or hammered for band iron, scroll iron, or casement rods, three cents per pound; on iron spikes, four cents per pound, on iron nails, cut or wrought, five cents per pound; on tacks, brads, and sprigs, not exceeding sixteen ounces to the thousand, five cents per thousand; exceeding sixteen ounces to the thousand, five cents per pound; on square wire used for the manufacture of stretchers for umbrellas, and cut in pieces not exceeding the length used therefor, twelve per centum ad valorem; on anvils and anchors, and all parts thereof, manufactured in whole or in part, two cents per pound; on iron cables or chains, or parts thereof, manufactured in whole or in part, three cents per pound, and no drawback shall be allowed on the exportation of iron cables or parts thereof; on mill cranks and mill irons of wrought iron, four cents per pound; on mill saws, one dollar each; on blacksmith's hammers and sledges, two and a half cents per pound; on muskets, one dollar and fifty cents per stand; on rifles, two

dollars and fifty cents each; on all other firearms, thirty per centum ad valorem.

Tenth. On axes, adzes, hatchets, drawing knives, cutting knives, sickles or reaping hooks, scythes, spades, shovels, squares of iron or steel, plated, brass and polished steel saddlery, coach and harness furniture, of all descriptions, steelyards and scalebeams, socket chisels, vices and screws of iron, called wood screws, thirty per centum ad valorem; on common tinned and japanned saddlery of all descriptions, ten per centum ad valorem; *Provided*, That said articles shall not be imported at a less rate of duty than would have been chargeable on the material constituting their chief value, if imported in an unmanufactured state.

Eleventh. On steel, one dollar and fifty cents per one hundred and twelve pounds.

Twelfth. On Japanned wares of all kinds, on plated wares of all kinds, and on all manufactures, not otherwise specified made of brass, iron, steel, pewter, or tin, or of which either of these metals is a component material, a duty of twentyfive per centum ad valorem; *Provided*, That all articles manufactured in whole of sheet, rod, hoop, bolt, or bar iron, or of iron wire, or of which sheet, rod, hoop, bolt or bar iron, or iron wire, shall constitute the greatest weight, and which are not otherwise specified, shall pay the same duty per pound that is charged by this act on sheet, rod, hoop, bolt, or bar iron, or on iron wire, of the same number, respectively: *Provided also*, That the said last mentioned rates shall not be less than the said duty of twentyfive per centum ad valorem.

Thirteenth. That all scrap and old iron shall pay a duty of twelve dollars and fifty cents per ton; that nothing shall be deemed old iron that has not been in actual use, and fit only to be remanufactured; and all pieces of iron except old, of more than six inches in length, or of sufficient length to be made into spikes and bolts shall be rated as bar, bolt, rod or hoop iron, as the case may be, and pay duty accordingly; all manufactures of iron partly finished, shall pay the same rates of duty as if entirely finished; all vessels of cast iron, and all castings of iron, with handles, rings, hoops, or other addition of wrought iron, shall pay the same rates of duty as if made entirely of cast iron.

Fourteenth. On unmanufactured hemp, forty dollars per ton: sail duck, fifteen per centum ad valorem; and on



cotton bagging, three and a half cents a square yard, without regard to the weight or width of the article : On felts or hat bodies made wholly, or in part of wool, eighteen cents each.

Fifteenth. On all manufactures of silk, or of which silk shall be a component part, coming from beyond the Cape of Good Hope, ten per centum ad valorem, and on all other manufactures of silk, or of which silk is a component part, five per centum ad valorem, except sewing silk, which shall be forty per centum ad valorem.

Sixteenth. On brown sugar and syrup of sugar cane, in casks, two and a half cents per pound ; and on white clayed sugar, three and one third cents per pound.

Seventeenth. On salt, ten cents per fiftysix pounds.

Eighteenth. On old and scrap lead, two cents per pound.

Nineteenth. On teas of all kinds, imported from places this side the Cape of Good Hope, or in vessels other than those of the United States, ten cents per pound.

Twentieth. On slates of all kinds, twentyfive per centum ad valorem.

Twentyfirst. On window glass not above eight by ten inches is size, three dollars per hundred square feet ; not above ten by twelve inches, three dollars and fifty cents per hundred square feet ; and if above ten by twelve inches, four dollars per hundred square feet : *Provided*, That all window glass imported in plates, uncut, shall be charged with the highest rates of duty hereby imposed. On all apothecaries' vials and bottles, exceeding the capacity of six and not exceeding the capacity of sixteen ounces each, two dollars and twentyfive cents the groce ; all perfumery and fancy vials and bottles, not exceeding the capacity of four ounces each, two dollars and fifty cents the groce ; and those exceeding four ounces, and not exceeding sixteen ounces each, three dollars and twentyfive cents the groce : on all wares of cut glass not specified, three cents per pound, and thirty per centum ad valorem : on black glass bottles not exceeding one quart, two dollars per groce : on black glass bottles exceeding one quart, two dollars and fifty cents per groce, on demijohns, twentyfive cents each, and on all other articles of glass, not specified, two cents per pound and twenty per centum ; on paper hangings forty per centum : on all Leghorn hats or bonnets, and all hats or bonnets of straw, chip, or grass, and all

flats, braids, or plaits for making hats or bonnets, thirty per centum : on the following articles twelve and a half per centum ad valorem, namely, whalebone, the product of foreign fishing, raw silk, and dressed furs ; and on the following articles twentyfive per centum ad valorem, namely, boards, planks, walking canes and sticks, frames or sticks for umbrellas and parasols, and all manufactures of wood not otherwise specified ; copper vessels, and all manufactures of copper, not otherwise specified : all manufactures of hemp or flax, except yarn and cordage, tarred, and untarred, ticklenburgs, osnaburges, and burllaps, not otherwise specified ; fans, artificial flowers, ornamental feathers, ornaments for head dresses, caps for women, and millinery of all kinds ; comfits and sweet-meats of all kinds, preserved in sugar or brandy, umbrellas and parasols, of whatever materials made ; parchment and vellum, wafers and black lead pencils, and brushes of all kinds. And on the following articles thirty per centum ad valorem, viz : cabinet wares ; hats and caps of fur, leather, or wool, leather ; whips, bridles : saddles ; and on all manufactures of leather not otherwise specified ; carriages and parts of carriages, and blank books ; on boots and bootees, one dollar and fifty cents per pair ; shoes of leather, other shoes and slippers of prunella, stuff or nankin ; also porcelain, china, stone, and earthen ware ; musical instruments ; and manufactures of marble, shall pay the present rates of duties.

Twentysecond. On olive oil, in casks, twenty cents a gallon.

Twentythird. On the wines of France, namely, red wines, in casks, six cents a gallon ; white wines, in casks, ten cents a gallon, and French wines of all sorts, in bottles, twentytwo cents a gallon ; until the third day of March, eighteen hundred and thirtyfour ; and from and after that day one half of those rates respectively ; and on all wines other than those of France one half of their present rates of duty, respectively, from and after the day last aforesaid, *Provided*, That no higher duty shall be charged under this act, or any existing law on the red wines of Austria than are now, or may be, by this act levied upon red wines of Spain when the said wines are imported in casks.

Twentyfourth. On the following articles an ad valorem duty of fifteen per centum, namely, barley, grass or straw baskets, composition, wax, or amber beads ; all other beads not otherwise

enumerated, lamp black; indigo bleached and unbleached linens; shell or paper boxes, hair bracelets, hair not made up for head dresses, bricks, paving tiles, brooms of hair or palm leaf, cashmere of Thibet, down of all kinds, feathers for beds.

Twentyfifth. All articles not herein specified, either as free or as liable to a different duty, and which, by the existing laws, pay an ad valorem duty higher than fifteen per centum, to pay an ad valorem duty of fifteen per centum, from and after the said third day of March, one thousand eight hundred and thirtythree.

SECT. 3. *And be it further enacted*, That, in addition to the articles exempted from duty by the existing laws, the following articles, imported from and after the third day of March, one thousand eight hundred and thirtythree, shall be exempted from duty; that is to say, teas of all kinds imported from China or other places east of the Cape of Good Hope, and in vessels of the United States, coffee, cocoa, almonds, currants, prunes, figs, raisins in jars and boxes, all other raisins, black pepper, ginger, mace, nutmegs, cinnamon, cassia, cloves, pimento, camphor, crude saltpetre, flax unmanufactured, quicksilver, opium, quills unprepared, tin in plates and sheets, unmanufactured marble, argol, gum arabic, gum senegal, epaulettes of gold and silver, lac dye, madder, madder root, nuts and berries used in dyeing, saffron, turmeric, wood or pastel; aloes, ambergris, burgundy pitch, bark, peruvian, cochineal, capers, chamomile flowers, coriander seed, cantharides, castanas, catsup, chalk, coculus indicus, coral, dates, filberts, filtering stones, frankincense, grapes, gamboge, hemlock, henbane, horn plates for lanthorns, ox horns, other horns and tips, india rubber, ipecacuanha, ivory unmanufactured, juniper berries, musk, nuts of all kinds, olives, oil of juniper, paintings and drawings, rattans unmanufactured, reeds unmanufactured, rhubarb, rotten stone, tamarinds, tortoise shell, tin foil, shellac, sponges, sago, lemons, limes, pine apples, cocoa nuts and shells, iris or orris root, arrow root, bole ammoniac, colombo root, annatto, annise-seed, oil of annise-seed, oil of cloves, cummin-seed, sarsaparilla, balsam tolu, assaetida, ava root, alcornoque, canella alba, cascorilla, haerlem oil, hartshorn, manna, senna, tapioca, vanilla beans, oil of almonds, nux vomica, amber, platina, busts of marble, metal or plaster, casts of bronze or plaster, strings of musical

instruments, flints, kelp, kermes, pins, needles, mother of pearl, hair unmanufactured, hair pencils, Brazil paste, tartar crude, vegetables such as are used principally in dyeing and in composing dyes, weld, and all articles used principally for dyeing coming under the duty of twelve and a half per centum, except bichromate of potash, prussiate of potash, chromate of potash and nitrate of lead, aquafortis, and tartaric acids; all other dyeing drugs, and materials for composing dyes, all other medicinal drugs, and all articles not enumerated in this act nor the existing laws, and which are now liable to an ad valorem duty of fifteen per centum, except tartar emetic and Rochelle salts, sulphate of quinine, calomel and corrosive sublimate, sulphate of magnesia, glauher salts: *Provided*, That nothing in this act contained shall be so construed as to reduce the duties upon alum, copperas, manganese, muriatic or sulphuric acids, refined salt petre, blue vitriol, carbonate of soda, red lead, white lead or litharge, sugar of lead or combs.

SECT. 4. *And be it further enacted*, That from and after the third day of March aforesaid, so much of any act of Congress as requires the addition of ten or twenty per centum to the cost or value of any goods, wares, or merchandise, in estimating the duty thereon, or as imposes any duty on such addition, shall be repealed.

SECT. 5. *And be it further enacted*, That from and after the third of March aforesaid, where the amount of duty on merchandise, except wool, manufactures of wool, or of which wool is a component part, imported into the United States, in any ship or vessel, on account of one person only, or of several persons jointly interested, shall not exceed two hundred dollars, the same shall be paid in cash, without discount; and if it shall exceed that sum, shall, at the option of the importer or importers, be paid or secured to be paid, in the manner now required by law, one half in three, and one half in six calendar months; and that, from and after the said third day of March, so much of the sixtysecond section of the act entitled 'An act to regulate the collection of duties on imports and tonnage,' approved the second day of March, one thousand seven hundred and ninety-nine, as authorizes the deposit of teas under the bond of the importer or importers, shall be repealed: and that so much of any existing law as requires teas, when imported in vessels of the United States, from pla-



ces beyond the Cape of Good Hope, to be weighed, marked and certified, shall be and the same is hereby repealed.

SECT. 6. *And be it further enacted,* That, from and after the third day of March aforesaid, the duties on all wool, manufactures of wool, or of which wool is a component part, shall be paid in cash, without discount, or at the option of the importer, be placed in the public stores, under bond, at his risk, subject to the payment of the customary storage and charges, and to the payment of interest at the rate of six per centum per annum while so stored: *Provided,* That the duty on the articles so stored shall be paid one half in three, and one half in six months from the date of importation: *Provided also,* That if any instalment of duties be not paid when the same shall have become due, so much of the said merchandise as may be necessary to discharge such instalment shall be sold at public auction, and retaining the sum necessary for the payment of such instalment of the duties, together with the expenses of safe keeping and sale of such goods, the overplus, if any, shall be returned by the collector, to the importer or owner, or to his agent or lawful representative: *And provided also,* That the importer, owner, or consignee of such goods, may, at any time after the deposit shall have been made, withdraw the whole or any part thereof, on paying the duties on what may be withdrawn, and the customary storage and charges, and of interest.

SECT. 7. *And be it further enacted,* That in all cases where the duty which now is, or hereafter may be imposed on any goods, wares, or merchandise imported into the United States, shall, by law, be regulated by, or be directed to be estimated or levied upon, the value of the square yard, or of any other quantity or parcel thereof; and in all cases where there is or shall be imposed any ad valorem rate of duty on any goods, wares, or merchandise imported into the United States, it shall be the duty of the collector within whose district the same shall be imported or entered, to cause the actual value thereof, at the time purchased, and place from which the same shall have been imported into the United States, to be appraised, estimated and ascertained, and the number of such yards, parcels, or quantities, and such actual value of every of them, as the case may require; and it shall, in every such case, be the duty of the appraisers of the United States, and every of them, and eve-

ry other person who shall act as such appraiser, by all the reasonable ways or means in his or their power, to ascertain, estimate, and appraise the true and actual value, any invoice or affidavit thereto to the contrary notwithstanding, of the said goods, wares, and merchandise, at the time purchased, and place from whence the same shall have been imported into the United States, and the number of such yards, parcels, or quantities, and such actual value of every of them as the case may require; and all such goods, wares, and merchandise, being manufactures of wool, or whereof wool shall be a component part, which shall be imported into the United States in an unfinished condition, shall, in every such appraisal, be taken, deemed, and estimated by the said appraisers, and every of them, and every person who shall act as such appraiser, to have been, at the time purchased, and place from whence the same were imported into the United States, of as great actual value as if the same had been entirely finished: *Provided,* That in all cases where any goods, wares, or merchandise, subject to ad valorem duty, or whereon the duty is or shall be by law, regulated by, or be directed to be estimated or levied upon, the value of the square yard, or any other quantity or parcel thereof shall have been imported into the United States from a country other than that in which the same were manufactured or produced, the appraisers shall value the same at the current value thereof at the time of purchase, before such last exportation to the United States, in the country where the same may have been originally manufactured or produced.

SECT. 8. *And be it further enacted,* That it shall be lawful for the appraisers to call before them, and examine, upon oath, any owner, importer, consignee, or other person, touching any matter or thing which they may deem material in ascertaining the true value of any merchandise imported, and to require the production on oath, to the collector, or to any permanent appraiser, of any letters, accounts or invoices, in his possession, relating to the same, for which purpose, they are hereby authorized to administer oaths. And if any person so called shall fail to attend, or shall decline to answer, or to produce such papers when so required, he shall forfeit and pay to the United States fifty dollars; and if such person be the owner, importer or consignee, the appraisement which the said appraisers may make of



the goods, wares or merchandise, shall be final and conclusive, any act of Congress to the contrary notwithstanding. And any person who shall swear falsely on such examination, shall be deemed guilty of perjury; and if he be the owner, importer, or consignee, the merchandise shall be forfeited.

SECT. 9. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury, under the direction of the President of the United States, from time to time, to establish such rules and regulations, not inconsistent with the laws of the United States, as the President of the United States shall think proper, to secure a just, faithful, and impartial appraisal of all goods, wares, and merchandise, as aforesaid, imported into the United States, and just and proper entries of such actual value thereof, and of the square yards, parcels or other quantities, as the case may require, and of such actual value of every of them; and it shall be the duty of the Secretary of the Treasury to report all such rules and regulations, with the reasons therefor, to the then next session of Congress.

SECT. 10. *And be it further enacted,* That an addition of ten per centum shall be made to the several rates of duties by this act imposed, in respect to all goods, wares and merchandise, on the importation of which, in American or foreign vessels, a specific discrimination has not already been made, which, from and after the third day of March aforesaid, shall be imported in ships or vessels not of the United States: *Provided*, That this additional duty shall not apply to goods, wares, and merchandise which shall be imported after said day in ships or vessels not of the United States, entitled by treaty, or by an act or acts of Congress, to be entered in the ports of the United States, on the payment of the same duties as shall then be paid on goods, wares, and merchandise imported in ships or vessels of the United States.

SECT. 11. *And be it further enacted,* That there shall be allowed a drawback of the duties by this act imposed, on goods, wares, and merchandize, which shall be imported from and after the said third day of March, upon the exportation thereof, within the time and in the manner prescribed in the existing laws at the time: *Provided* no drawback shall be allowed on a less quantity of cordage than five tons.

SECT. 12. *And be it further enacted,* That the existing laws at the time shall

extend to and be in force for, the collection of the duties imposed by this act, on goods, wares, and merchandize which shall be imported into the United States from and after the said third day of March, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, and for the allowance of drawbacks by this act authorized, as fully and effectually as if every regulation, restriction, penalty, forfeiture, provision, clause, matter, and thing in the then existing laws contained, had been inserted in and re-enacted by this act; and that so much of any act which is contrary to this act shall be, and the same is hereby repealed.

SECT. 13. *And be it further enacted,* That whenever goods composed wholly, or in part of wool or cotton, of similar kind, but different quality, are found, in the same packages, charged at an average price, it shall be the duty of the appraisers to adopt the value of the best article contained in such package, and so charged, as the average value of the whole: and that so much of the act entitled 'An act for the more effectual collection of the impost duties,' approved the twentyeight, May, one thousand eight hundred and thirty, as requires the appraisers to adopt the value of the best article contained in a package as the average value of the whole, be, and the same is hereby repealed.

SECT. 14. *And be it further enacted,* That whenever, upon the opening and examination of any package or packages of imported goods, composed wholly, or in part, of wool or cotton, in the manner provided by the fourth section of the act for the more effectual collection of the impost duties, approved on twenty-eighth day of May, one thousand eight hundred and thirty, the said goods shall be found not to correspond with the entry thereof at the custom-house; and if any package shall be found to contain any article not entered, such article shall be forfeited; or if the package be made up with intent to evade or defraud the revenue, the package shall be forfeited; and so much of the said section as prescribes a forfeiture of goods found not to correspond with the invoice thereof, be, and the same is hereby repealed.

SECT. 15. *And be it further enacted,* That, from and after the said third day of March, one thousand eight hundred and thirtythree, the ad valorem rates of duty on goods, wares, and merchandize, shall be estimated in the manner following: to the actual cost, if the same shall have been actually purchased, or the

actual value, if the same shall have been procured otherwise than by purchase, at the time and place when and where purchased, or otherwise procured, or to the appraised value, if appraised, shall be added all charges, except insurance.

SECT. 16. *And be it further enacted,* That, from and after the said third day of March, one thousand eight hundred and thirtythree, in calculating the rates of duties, the pounds sterling shall be considered and taken as of the value of four dollars and eighty cents.

SECT. 17. *And be it further enacted,* That syrup imported in casks, and all syrup for making sugar, shall be rated by weight, and pay the same duty as the sugar of which it is composed would pay in its natural state; and that loaf or lump sugar, when imported in a pulverized, liquid, or other form, shall pay the same duty as is imposed by law on loaf or lump sugar; and all fossil and crude mineral salt shall pay fifteen per centum ad valorem.

SECT. 18. *And be it further enacted,* That the several articles enumerated in this bill, whether imported before or after the passage thereof, may be put into the custom-house stores, under the bond of the importer or owner; and such of said articles as shall remain under the control of the proper officer of the customs on the third day of March, eighteen hundred and thirtythree, shall be subject to no other duty than if the same were imported, respectively, after that day. And if the duties or any part thereof on the articles deposited as aforesaid shall have been paid previous to the said third day of March, the amount so paid shall be refunded to the person importing and depositing the said articles: *Provided,* That this section shall apply to merchandise in original packages which may have been entered and taken into the possession of the importer or owner; upon condition that the said merchandise be placed under the custody of the proper officer of the customs, and that the same shall remain under his control on the third day of March next: *And provided further,* That the Secretary of the Treasury be authorized to prescribe such rules and regulations as may be necessary to carry this section into effect.

CHAP. 228. An Act to provide for the extinguishment of the Indian title to lands lying in the States of Missouri and Illinois, and for other purposes.

CHAP. 229. An Act for the erection of barracks, quarters, and storehouses, and the purchase of a site in the vicinity of New Orleans.

CHAP. 230. An Act in addition to an act, entitled 'An act for the relief of certain insolvent debtors of the United States.'

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all and each of the provisions of the act to which this is an addition, shall be extended to every person who was a debtor to the United States on the first day of January, one thousand eight hundred and thirtyone, in any sum of money which he is unable to pay, unless such person be indebted as the principal in an official bond, or for public money received by him, and not paid over or accounted for according to law; or for any fine, forfeiture, or penalty, incurred by the violation of any law of the United States.

SECT. 2. *And be it further enacted,* That, in all such cases of indebtedness as are described in the fourth section of the act to which this is an addition, the Secretary of the Treasury may, according to his discretion, execute to the debtor of the United States a release, as mentioned therein, without any payment by said debtor, if the Secretary of the Treasury is satisfied that said debtor is unable to pay any part of said debt.

SECT. 3. *And be it further enacted,* That nothing contained in this act, or in the act of which it is an amendment, shall be construed to entitle any Government debtor to be discharged, until it shall appear to the satisfaction of the Secretary of the Treasury, that the sureties of such debtor are unable to pay the said debt, and that they are entitled to the provisions of this act, in like manner as the said principal debtor shall be entitled to the same, or, unless said sureties shall file their consent, in writing, with the Secretary of the Treasury, that the privileges of this act, and the act to which this is an amendment, may be extended to their principal without any prejudice to their liability, or unless such discharge can and shall be given in such manner as not to affect the legal liability of such sureties.

SECT. 4. *And be it further enacted,* That there be, and hereby is, appropriated the sum of five thousand dollars, out of any unappropriated moneys in



the Treasury, to carry into effect this act, and that of which it is an amendment.

CHAP. 231. An Act to provide for the appointment of three commissioners to treat with the Indians, and for other purposes.

CHAP. 232. An Act to provide for the taking of certain observations preparatory to the adjustment of the northern boundary line of the State of Ohio.

Approved, July 14, 1832.

CHAP. 233. An Act to amend the act entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned.'

SECT. 1. *Be it enacted by the Senate and house of Representatives of the United States of America in Congress assembled,* That in all cases of fine, penalty, or forfeiture, mentioned and embraced in the act entitled 'An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned,' or in any act in addition to, or amendatory of said act, and not exceeding fifty dollars in amount, or value, the Secretary of the Treasury be, and he hereby is, authorized, if in his opinion the said fine, penalty, or forfeiture was incurred without wilful negligence or intention of fraud, to prescribe such rules and mode of proceeding, to ascertain the facts, as in his opinion may be convenient and proper, without regard to the provisions of the act above referred to; and upon the said facts, so to be ascertained as aforesaid, the said Secretary may exercise all the power conferred upon him in and by said act, as fully as he might have done had said facts been ascertained under and according to the provisions of said act.

CHAP. 234. An Act further to provide for the relief of distressed American seamen in foreign countries.

CHAP. 235. An Act to remit a part of the duties on a cargo imported in the brig *Liberator*.

CHAP. 236. An Act for the relief of the Invalid Pensioners of the United States.

CHAP. 237. An Act to amend the

act, entitled 'An act for the relief of certain surviving officers and soldiers of the army of the revolution.'

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the third section of the act, entitled 'An act for the relief of certain surviving officers and soldiers of the army of the revolution,' approved the fifteenth day of May, one thousand eight hundred and twentyeight, shall not be construed to embrace invalid pensioners; and that the pension of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

Approved, July 14, 1832.

CHAP. 238. An Act repealing a part of the fifth section of an act, entitled 'An act to establish ports of delivery at Port Pontchartrain and Delaware city, and for other purposes.'

CHAP. 239. An Act to amend the several acts for the establishment of a Territorial Government in Florida.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the court of appeals in the Territory of Florida, established in virtue of the fourth section of the act of the twentysixth of May, one thousand eight hundred and twentyfour, to which this act is an amendment, shall be composed of the judges of the superior courts in said Territory respectively, a majority of whom shall be necessary to be present to constitute a quorum to hear and decide causes; but any two of the said judges shall be sufficient to make any interlocutory order, or to grant any writ authorized by any of the acts to which this is an amendment.

SECT. 2. *And be it further enacted,* That the provisions and regulations contained in the twentyfifth section of the act of the twentyfourth of September, one thousand seven hundred and eighty-nine, entitled 'An act to establish the judicial courts of the United States,' in regard to writs of error and appeals to the Supreme Court of the United States, from a final judgment or decree in any suit in the highest court of law or equity of a State, shall be applicable to writs of error and appeals to the Supreme Court of the United States from the highest court of law or equity in said Territory, having jurisdiction of the



subject matter, in the same manner, as writs of error and appeals are authorized now to be taken and prosecuted under the aforesaid twentyfifth section of the act of the twentyfourth of September, one thousand seven hundred and eighty-nine, from any court in any State; and writs of error and appeals, in virtue of the said twentyfifth section, are hereby authorized to be taken and prosecuted, from the highest court of law or equity having jurisdiction of the subject matter in the said Territory.

SECT. 3. *And be it further enacted,* That the regulations prescribed by the second section of the act entitled 'An act in addition to an act entitled 'An act to amend the judicial system of the United States,' approved the third of March, one thousand eight hundred and three, as far as said regulations shall be practicable, shall be observed in respect to all writs of error and appeals from the said court of appeals in the said Territory to the Supreme Court of the United States.

SECT. 4. *And be it further enacted,* That appeals and writs of error may be taken and prosecuted, in all cases from the decisions and judgments of the highest court of said Territory to the Supreme Court of the United States, where the amount in controversy exceeds one thousand dollars.

CHAP. 240. An Act to authorize the sale of certain public lands in the State of Ohio.

CHAP. 241. An Act to authorize the disposition of the fund arising from the sale of a quarter section of land, reserved for the use of schools, in Florida.

CHAP. 242. An Act giving the assent of the United States to an act of the General Assembly of Maryland, passed at their December session, in one thousand eight hundred and thirtyone, entitled 'An act further to amend the act incorporating the Chesapeake and Ohio Canal Company.'

CHAP. 243. An Act making appropriation towards the expense of laying out and opening a military road, from fort Howard, at Green Bay, to fort Crawford on the Mississippi.

CHAP. 244. An Act for the relief of the officers and soldiers of Fort Delaware.

CHAP. 245. An Act to revive and continue in force, 'An act authorizing the payment of certain certificates,' approved seventh of May, one thousand eight hundred and twentytwo.

CHAP. 246. An Act supplemental to the act 'granting the right of preemption to settlers on the public lands,' approved the twenty-ninth day of May, eighteen hundred and thirty.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the occupants and settlers upon the public lands of the United States, who are entitled to a preemption according to the provisions of the act of Congress, approved the twenty-ninth day of May, eighteen hundred and thirty, and who have not been, or shall not be, enabled to make proof and enter the same within the time limited in said act, in consequence of the public surveys not having been made and returned, or where the land was not attached to any land district, or where the same has been reserved from sale on account of a disputed boundary between any State and Territory, the said occupants shall be permitted to enter the said lands on the same conditions, in every respect, as are prescribed in said act, within one year after the surveys are made, or the land attached to a land district, or the boundary line established; and, if the said lands shall be proclaimed for sale before the expiration of one year as aforesaid, then they shall be entered before the sale thereof.

SECT. 2. *And be it further enacted,* That the occupants upon fractions shall be permitted, in like manner, to enter the same, so as not to exceed in quantity one quarter section; and if the fractions exceed a quarter section, the occupant shall be permitted to enter one hundred and sixty acres, to include his or their improvement, at the price aforesaid.

CHAP. 247. An Act to authorize the sale of lands reserved from sale at Fort Jackson, in the State of Alabama.

CHAP. 248. An Act granting certain city lots to the corporation of the Columbian College, for the purposes therein mentioned.

CHAP. 249. An Act for the benefit of

Saint Vincent's Female Orphan Asylum of the city of Washington, under the direction of the 'Sisters of charity,' and of the Washington City Orphan Asylum, and for other purposes.

CHAP. 250. An Act to release from duty, iron prepared for, and actually laid on, railways or inclined planes.

CHAP. 251. An Act supplemental to the act 'granting certain relinquished and unappropriated lands to the State of Alabama, for the purpose of improving the navigation of the Tennessee, Coosa, Cahaba, and Black Warrior rivers,' approved the twentythird day of May, one thousand eight hundred and twenty eight.

CHAP. 252. An Act for the relief of Bernard Leonard and Jacob Black.

CHAP. 253. An Act for the relief of Lieutenant James L. Dawson.

CHAP. 254. An Act for the relief of David Kilbourn.

CHAP. 255. An Act for the relief of Silvia Posner.

CHAP. 256. An Act for the relief of Abiah Warren, and others.

CHAP. 257. An Act for the relief of Don Carlos Dehault Delassus.

CHAP. 258. An Act for the relief of Heman Allen.

CHAP. 259. An Act for the relief of Christopher Brooks.

CHAP. 260. An Act for the relief of the personal representatives of Colonel John Laurens.

CHAP. 261. An Act for the relief of Gates Hoit.

CHAP. 262. An Act for the relief of David E. Twiggs, Joseph M. Street and Stephen W. Kearney.

CHAP. 263. An Act for the relief of certain invalid and other pensioners, therein named.

CHAP. 264. An Act for the relief of John J. Jacob.

CHAP. 265. An Act for the relief of William Nelson, administrator of the estate of Andrew Nelson, deceased, and for other purposes.

CHAP. 266. An Act for the relief of Pierre Leglieze.

CHAP. 267. An Act for the relief of Rebecca Blodget, widow of Samuel Blodget deceased.

CHAP. 268. An Act for the relief of Guy W. Smith.

CHAP. 269. An Act for the relief of the heirs of Thomas Davenport.

CHAP. 270. An Act for the relief of Thomas Holdup Stevens, and others.

CHAP. 271. An Act for the relief of Samuel May.

CHAP. 272. An Act for the relief of John Brunson.

CHAP. 273. An Act for the relief of William D. Gaines and William M. King.

CHAP. 274. An Act for the relief of John F. Girod, of Louisiana.

CHAP. 275. An Act for the relief of William Wayne Wells, of the State of Indiana.

CHAP. 276. An Act for the relief of the heirs and legal representatives of Edward Barry, deceased.

CHAP. 277. An Act for the relief of John Buhler.

CHAP. 278. An Act for the relief of the heirs of Jeremiah Buckley, deceased.

CHAP. 279. An Act for the relief of Gertrude Gates.

CHAP. 280. An Act for the relief of William A. Tennille.

CHAP. 281. An Act granting to Middleton McKay, a section of land in lieu of the reservation given him by the treaty of Dancing Rabbit Creek.

CHAP. 282. An Act for the relief of

the sureties of George Brown, deceased, late Collector of internal duties and direct tax for the first district in the State of Maryland.

CHAP. 283. An Act for the relief of Robert C. Jennings, and of the executors of James Roddy, deceased.

CHAP. 284. An Act for the relief of John and Benjamin Welles.

CHAP. 285. An Act for the relief of Randall Allis, Timothy Twichell, and John Lee Williams.

CHAP. 286. An Act for the relief of Benjamin Bullitt.

CHAP. 287. An Act to amend an act entitled, 'An act for the relief of George Johnston,' passed second March, one thousand eight hundred and thirtyone.

CHAP. 288. An Act for the relief of Bartholomew Shaumburgh.

CHAP. 289. An Act for the relief of Hartwell Vick of the State of Mississippi.

CHAP. 290. An Act for the relief of certain Invalid Pensioners.

CHAP. 291. An Act for the relief of Grieve Drummond.

CHAP. 292. An Act for the relief of John Peck.

CHAP. 293. An Act for the relief of Elizabeth Scott, only surviving child, and heir at law, of Captain William Blackwell, deceased.

CHAP. 294. An Act for the relief of Sarah Easton and Dorothy Storer,

CHAP. 295. An Act for the relief of Augustine Taney.

CHAP. 296. An Act for the relief of Henry Waller.

CHAP. 297. An Act for the relief of Harvey Brown.

CHAP. 298. An Act for the relief of Alexander Oswald Brodie of New York.

CHAP. 299. An Act for the relief of William Hoffman, a Canadian volunteer.

CHAP. 300. An Act for the relief of the widow and heirs of Pedro, alias Pierre Guedry.

CHAP. 301. An Act for the relief of the legal representatives of Nimrod Farrow and of Richard Harris.

CHAP. 302. An Act for the relief of the heirs of Nathaniel Hillen.

CHAP. 303. An Act for the relief of Mary Daws, Robert Bond, James Patridge, and John G. Smith.  
Approved; July 14, 1832.

### RESOLUTIONS.

No. 1. Resolution, empowering the Secretary of the Navy to settle certain contracts, and to relinquish certain forfeitures.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be empowered to relinquish and pay all forfeitures on contracts made by the Board of Navy Commissioners, when said forfeitures have arisen by the extension of the contracts, or where the contracts have been completed by the approbation of the Board of Navy commissioners, without any injury to the public service; and the Secretary of the Navy is empowered to fulfil all outstanding contracts where the time for their performance has been extended, or where the completion of said contracts has been prevented by unavoidable accident, and the public service has sustained no injury.

Approved, February 10, 1832.

No. 2. Resolution concerning the recording of Patents for useful inventions.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State, out of the proceeds arising from the fees, on patents for useful inventions, discoveries and improvements, procure the necessary books, stationery, and other accommodations for recording the patents issued and unrecorded, as well as those hereafter to be issued, and that he employ, and pay at a rate not exceeding twelve and a half cents for every hundred words, so many clerks as may be requisite, with convenient despatch, to record the same.

Approved, March 7, 1832.



No. 3. Resolution respecting the pay of the Marines.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the pay, subsistence, emoluments, and allowances of officers, non-commissioned officers, musicians and privates of the United States Marine Corps, shall be the same as they were previously to the first of April, one thousand eight hundred and twenty-nine, and shall so continue, until they shall be altered by law.*

Approved, May 25, 1832.

No. 4. Resolution transferring certain duties, relating to Pensions, from the Treasury to the War Department.

No. 5. Resolution for the distribution of the returns of the Fifth Census.

No. 6. Resolution directing the distribution of a compilation of congressional documents, and for other purposes.

No. 7. Resolution for binding the several copies of the returns of the fifth census, printed by authority of the act of the twentythird of May, one thousand eight hundred and thirty.

No. 8. Resolution to repeal a resolution, approved the twenty-ninth day of April, one thousand eight hundred and sixteen, authorizing the President of the United States to employ a skilful assistant in the corps of engineers.

No. 9. Resolution in relation to the execution of an act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the execution of the act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution, approved June seventh, one thousand eight hundred and thirty-two, the time of imprisonment as a prisoner of war, shall be taken and computed as a part of the period of service.*

Approved, July 14, 1832.

No. 10. Resolution directing the transmission of the Fifth Census by mail.

No. 11. Resolution respecting the Biennial Register.

# TRIALS AND LEGAL DECISIONS.

## CONSTITUTIONAL DECISIONS

OF THE

### SUPREME COURT OF THE UNITED STATES.

JANUARY TERM, 1832.

*Asa Greene, Plaintiff in Error, vs. The Lessee of Henry Neal, Defendant in Error.*

ERROR to the Circuit Court of the United States for the district of West Tennessee.

Mr Grundy for the Plaintiff in error ; Mr Isaacks for the defendant.

The facts of the case are fully stated in the opinion of the court delivered by Mr Justice Mc'Lean.

The writ of error is prosecuted to reverse a judgment of the Circuit Court for West Tennessee. An action of ejectment was prosecuted by Neal in that Court, to recover the possession of six hundred and forty acres of land. The issue was joined and at the trial, the defendant relied upon the statute of limitations and prayed certain instructions of the court to the jury. Instructions were given, as stated in the following bill of exceptions. 'In the trial the plaintiff introduced in evidence a grant from the State of North Carolina dated

to Willoghby Williams, for the land in controvert, and deduced a regular chain of conveyances to plaintiffs' lessor, and proved defendant in possession of the land in question at the time suit was brought; defendant introduced a deed from Andrew Jackson to Edward Dillon, and proved that the defendant held by a lease from Dillon, and also in support of Dillons, introduced evidence tending to prove that persons claiming under and for Dillon, had been more than seven years in possession of the premises in dispute, adverse to the plaintiffs; upon which the court charged the jury, that according to the

present state of decision in the Supreme Court of the United States they could not charge that defendant's title was made good by the statute of limitations.'

The decision of the point raised by the bill of exceptions in this case, is one of great importance, both as it respects the amount of property which may be effected by it and the principle which it involves. In the case of Patton's Lessee, vs. Easton, which was brought to this court by writ of Error in 1816, the same question which was raised by the bill of exceptions was then decided. But it is contended, that under the peculiar circumstances of the case now before the court, they ought not to feel themselves bound by their former decision. This court in the case of Powell's Lessee v. Green, 2 Peters, 240, gave another decision, under the authority of the one just named, but the question was not argued before the court.

The question involves in the first place, the construction of the statutes of limitations passed in 1715 and in 1797. The former was adopted by the State of Tennessee, from North Carolina: the third section of which provides, 'that no person or persons, or their heirs which hereafter shall have any right or title to any lands, tenements, or hereditaments, shall thereunto enter or make claim, but within seven years after his, her, or their right or title shall descend or accrue, and in default, thereof, such person or persons, so not entering or making default shall be utterly excluded and disabled from any entry or claim

thereafter to be made.' The fourth section provides, after enumerating certain disabilities, and the time within which suit must be brought, after they shall cease, that 'all possessions held without suing such claim as aforesaid, shall be a perpetual bar against all and all manner of persons whatever, that the expectation of heirs may not, in a short time, leave much land unpossessed, and titles so perplexed that no man will know from whom to take or buy land.'

In the year 1797, the legislature, in order to settle the true construction of the existing laws respecting seven years' possession, enact 'that in all cases where ever any person or persons shall have had seven years' peaceable possession of any land, by virtue of a grant or deed of conveyance founded upon a grant, and no legal claim by suit in law, by such, set up to said land, within the above term, that then and in that case, the person or persons so holding possession as aforesaid, shall be entitled to hold possession in preference to all other claimants such quantity of land as shall be specified in his, her or their said grant or deed of conveyance founded on a grant as aforesaid. This act further provides, that those who neglect, for the term of seven years, to assert their claims, shall be barred.

This Court, in the conclusion of their opinion in the case of Patton's Lessee v. Easton, say 'this question too has at length, been decided in the Supreme Court of the State. Subsequent to the division of opinion on this question in the Circuit Court, two cases have been decided in the Supreme Court for the State of Tennessee, which have settled the construction of the act of 1797. It has been decided, that a possession of seven years is a bar only when held under a grant, or a deed founded on a grant.' The deed must be connected with the grant. This court concurs in that opinion. A deed cannot be 'founded on a grant which gives a title not derived in law or equity from that grant, and the words, *founded on a grant*, are too important to be discarded.'

The two decided cases to which reference is made above, are Lillard vs. Elliot, and Douglass v. Bledsoe's Heirs. These cases were decided in the year 1815; and this court considered, that they settled the construction of the Statute of 1797. But it is now made to appear that these decisions were made under such circumstances, that they were never considered, in the State of Tennessee, as fully settling the construction of the act.

In the case of Lillard vs. Elliot, it seems but two judges concerned on the point, the court being composed of four; and in the case of Weatherhead vs. Douglas, that was great contrariety of opinion among the judges, on the point of either legal or equitable connexion. The question was frequently raised before the Supreme Court of Tennessee: but the construction of the two statutes of limitations was never considered as finally settled until 1825, when the case of Gray and Reeder vs. Darby's Lessee was decided.

In this cause, an elaborate review of the cases which had arisen under the statute, is taken, and the construction of both statutes was given, that it is not necessary, to entitle an individual to the benefits of the statutes, that he should show a connected title, either legal or equitable. That if he prove an adverse possession of seven years and a deed, before suit is brought, and show that the land has been granted, he brings himself within the statutes.

Since this decision the law has been considered as settled in Tennessee, and there has been so general an acquiescence in all the courts of the state, that the point is not now raised or discussed. This construction has become a rule of property in the State, and numerous suits involving title have been settled by it. Had this been the settled construction of these statutes when the decision was made by this court, in the case of Patton's Lessee vs. Easton, there can be no doubt, that that opinion would have conformed to it. But the question is now raised, whether the court will adhere to its own decision, made under the circumstances stated, or yield to the judicial tribunals of Tennessee. This point has never before been directly decided by this court, on a question of general importance. The cases are numerous where the court have adopted the constructions given to the statute of a state by its supreme judicial tribunal: but it has never been decided, that this Court will overrule their own adjudication, establishing an important rule of property, where it has been founded on the construction of a statute made in conformity to the decisions of the state at the time, so as to conform to a different construction adopted afterwards by the state.

This is a question of grave import and should be approached with great deliberation. It is deeply interesting in every point of view in which it may be considered. As a rule of property it is important: and equally so as it regards



the system under which the powers of this tribunal are exercised.

It may be proper to examine in what light the decision of the State Courts, in giving a construction to their own statutes have been considered by this Court.

In the case of *Mc'Keen vs. Delancy's Lessee*, reported in 5 Cranch, 22, this Court held, that the acknowledgment of a deed before a justice of the Supreme Court, under a statute which required the acknowledgment to be made before a Justice of the Peace, having been long practised in Pennsylvania, and sanctioned by her tribunals, must be considered as within the statute.

The Chief Justice in giving the opinion of the Court in the case of *Bodley vs. Taylor* 5 Cranch, 221, says, in reference to the jurisdiction of a court of equity 'had this been a case of the first impression, some contrariety of opinion would perhaps have existed on this point. But it has been sufficiently shown, that the practice of resorting to a Court of Chancery in order to set up an equitable against the legal title, received in its origin the sanction of the Court of Appeals, while Kentucky remained a part of Virginia, and has been so confirmed by an uninterrupted series of decisions, as to be incorporated into their system, and to be taken into view in the consideration of every title to lands in that country. Such a principle cannot now be shaken.

In the case of *Taylor vs. Brown*, 5 Cranch, 235, the Court say, in reference to their decision in the case of *Bodley vs. Taylor* 'this opinion is still thought perfectly correct in itself. Its application to particular cases, and indeed its being considered as a rule of decision on Kentucky titles, will depend very much on the decisions of that country. For in questions respecting title to real estate, especially, the same rule ought certainly to prevail in both courts.'

This Court in laying down the requisites of a valid entry in the case of *Masie vs. Watts*, 6 Cranch, 165, say, these principles have been laid down by the courts, and must be considered as expositions of the statute. A great proportion of the landed property of the country depends on adhering to them.

In 9 Cranch, 87, the Court say, that, in cases depending on the statute of a state, and more especially in those respecting titles to lands, the federal courts adopt the construction of the State, where that construction is settled and can be ascertained. And in 5

Wheaton, 279, it is stated, that the Supreme Court uniformly acts under a desire to conform its decisions to those of the State Courts, on their local laws.'

The Supreme Court holds in the highest respect decisions of state courts upon local laws forming rules of property 2 Wheaton, 316. In constructing local statutes respecting real property, the courts of the Union are governed by the decisions of the state tribunals, 6 Wheaton, 119. The Court say in the case of *Elmandorf vs. Taylor et al.* 10 Wheaton, 152, 'that the courts of the United States in cases depending on the laws of a particular state, will in general, adopt the construction which the courts of the state have given to those laws.' This course is founded upon the principle supposed to be universally recognised that the judicial department of every government, where such department exists, is the appropriate organ for construing the legislative acts of that government.'

In 7 Wheaton, 361, the Court again declared that the statute laws of the states must furnish the rule of decision to the federal courts, as far as they comport with the constitution of the United States, in all cases arising within the respective states; and a fixed and received construction of their respective statute laws, in their own courts, makes a part of such statute law.' The Court again say, in 12 Wheaton, 153, 'that this Court adopts the local law of real property as ascertained by the decisions of the state courts, whether these decisions are grounded on the construction of the statutes of the state, or form a part of the unwritten law of the state which has become a fixed rule of property.' Quotations might be multiplied, but the above will that this court have uniformly adopted the decisions of the state tribunals, respectively in the construction of their statutes. That this has been done as a matter of principle, in all cases where the decision of a state court has become a rule of property.

In a great majority of the causes brought before the federal tribunals, they are called to enforce the laws of the states. The rights of parties are determined under those laws, and it would be a strange perversion of principle, if the judicial exposition of those laws, by the state tribunals, should be disregarded. These expositions constitute the law and fix the rule of property. Rights are acquired under this rule, and it regulates all the transactions which come within its scope.

It is admitted in the argument, that this court in giving a construction to a local law, will be influenced by the decisions of the local tribunals: but it is contended, that when such a construction shall be given in conformity to those decisions, it must be considered final. That if the state shall change the rule, it does not comport either with the consistency or dignity of this tribunal to adopt the change. Such a course it is insisted, would recognise in the state courts a power to revise the decisions of this court and to fix the rule of property differently from its solemn adjudications. That the federal court when sitting within a state, is the court of that state, being so constituted by the constitution and the laws of the Union: and as such, has an equal right with the state courts to fix the construction of the local law.

On all questions arising under the constitution and laws of the Union, this court may exercise a revising power, and its decisions are final and obligatory on all other judicial tribunals, state as well as federal. A state tribunal has a right to examine any such questions and to determine them, but its decision must conform to that of the Supreme Court, or the corrective power may be exercised. But the case is very different where a question arises under a local law. The decision of this question by the highest judicial tribunal of a state, should be considered as final by this Court: not because the state tribunal, in such a case, has any power to bind this Court; but because in the language of the Court, in the case of *Shilby et al. vs. Guy*, 11 Wheaton, 361, 'a fixed and received construction by a state in its own courts, makes a part of the statute law.'

The same reason which influences this Court to adopt the construction given to the local law, in the first instance, is not less strong in favor of following it in the second, if the state tribunal should change the construction. A reference is here made, not to a single adjudication, but to a series of decisions which shall settle the rule. Are not the injurious effects on the interests of the citizens of a state, as great, in refusing to adopt a change of construction, as in refusing to adopt the first construction. A refusal in the one case as well as in the other, has the effect to establish, in the state, two rules of property.

Would not the change in the construction of a law of the United States, by this tribunal, be obligatory on the state courts? The statute as last expounded, would be the law of the Union: and

why may not the same effect be given to the last exposition of a local law by the state court? The exposition forms part of the local law and is binding on all the people of the state, and its inferior judicial tribunals. It is emphatically the law of the state; which the federal court, while sitting within the state, and this court, when a case is brought before them, are called to enforce. If the rule as settled, should prove inconvenient or injurious to the public interests, the legislature of the state may modify the law or repeal it.

If the construction of the highest judicial tribunal of a state form a part of its statute law, as much as an enactment by the legislature, how can this Court make a distinction between them? There could be no hesitation in so modifying our decisions as to conform to any legislative alteration in a statute; and why should not the same rule apply, where the judicial branch of the state government, in the exercise of its acknowledged functions, should by construction, give a different effect to a statute, from what had at first been given to it. The charge of inconsistency might be made with more force and propriety against the federal tribunals for a disregard of this rule, than by conforming to it. We profess to be bound by the local law, and yet they reject the exposition of that law which forms a part of it. It is no answer to this objection, that a different exposition was formerly given to the act which was adopted by the federal court. The inquiry is, what is the settled law of the state at the time the decision is made. This constitutes the rule of property within the state, by which the rights of litigant parties must be determined.

As the federal tribunals profess to be governed by this rule, they can never act inconsistently by enforcing it. If they change their decision, it is because the rule on which that decision was founded has been changed.

The case under consideration illustrates the propriety and necessity of this rule. It is now the settled law of Tennessee, that an adverse possession of seven years under a deed for land that has been granted, will give a valid title. But by the decision, such a possession, under such evidence of right, will not give a valid title. In addition to the above requisites, this court have decided that the tenant must connect his deed with a grant. It therefore follows, that the occupant whose title is protected under the statutes, before a state tribu-

nal is unprotected by them, before the federal court. The plaintiff in ejectment, after being defeated in his action before a state court, on the above construction, to insure success has only to bring an action in the federal court. This may be easily done by a change of his residence, or a bona fide conveyance of the land.

Here is a judicial conflict, arising from two rules of property in the same state, and the consequences are not only deeply injurious to the citizens of the state, but calculated to engender the most lasting discontents. It is therefore essential to the interests of the country, and to the harmony of the judicial action of the federal and state governments, that there should be but one rule of property in a state.

In several of the States, the English statute of limitations has been adopted, with various modifications; but in the saving clause, the expression 'beyond the seas,' is retained. These words in some of the states are construed to mean 'out of the State,' and in others a literal construction has been given them.

In the case of Murray's Lessee vs. Baker, et al. 3 Wheaton, 540, this court decided, that the expressions, 'beyond seas' and 'out of the state' are analogous; and are to have the same construction. But suppose the same question should be brought before this Court,

from a state where the construction of the same words had been long settled to mean literally 'beyond seas,' would not this Court conform to it? And might not the same arguments be used in such a case, as are now urged against conforming to the local construction of the law of Tennessee. Apparent inconsistencies in the construction of the statute laws of the states, may be expected to arise from the organization of our judicial systems: but an adherence by the federal courts to the exposition of the local law, as given by the courts of the state, will greatly tend to preserve harmony in the exercise of the judicial power in the state and federal tribunals. This rule is not only recommended by strong considerations of propriety, growing out of our system of jurisprudence, but it is sustained by principle and authority.

As it appears to this Court, that the construction of the statutes of limitations is now well settled, differently from what was supposed to be rule at the time this Court decided the case of Patton's Lessee vs. Easton, and the case of Powell's Lessee vs. Green; and as the instructions of the circuit court were governed by these decisions, and not by the settled law of the state, the judgment must be reversed, and the cause remanded for further proceedings.

Mr Justice Baldwin dissented.

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### *The State of New Jersey, vs. the People of the State of New York.*

At January Term, 1831, an order was made giving the state of New York leave to appear in this case on the second day of this term and answer the complainants' bill; and if there should be no appearance, that the Court would proceed to hear the cause on the part of the complainants, and to decree on the matter of the bill. On the first day of the term, a demurrer to the complainants' bill was filed, which was signed 'Green C. Bronson, attorney general of New York. No other appearance was entered on the part of the defendants. Mr Chief Justice delivered the opinion of the Court. The Court have had the return made in this case under consideration. It considers the demurr-

er filed in this case by the Attorney General of New York, as being an appearance for the state, he being a practitioner in this court: and therefore that the demurrer is regularly filed. If the Attorney General did not so mean it, it is not a paper which can be considered as in the cause, or be placed on the files of the Court. We say this now, that the Attorney General may have due notice if he did not intend to enter any appearance for the state: it being otherwise a paper not to be received.

The demurrer then being admitted as containing an appearance by the State, the Court is of opinion, that it amounts to a compliance with the order at the last term. In that order the word 'an-



swer,' is not used in a technical sense, as an answer to the charges in the bill under oath : but an answer, in a more general sense, to the bill. A demurrer is an answer in law to the bill, though not in a technical sense an answer ac-

cording to the common language of practice.

The Court, therefore, direct the demurrer to be set down for argument, on the first Monday of March of this term, according to the motion of the plaintiffs.

### THE CHEROKEE CASE.

OPINION OF THE SUPREME COURT OF THE UNITED STATES, AT JANUARY TERM, 1832, DELIVERED BY MR CHIEF JUSTICE MARSHALL, TOGETHER WITH THE OPINION OF MR JUSTICE MC LEAN, IN THE CASE OF SAMUEL A. WORCESTER, PLAINTIFF IN ERROR, VS. THE STATE OF GEORGIA : WITH A STATEMENT OF THE CASE, EXTRACTED FROM THE RECORDS OF THE SUPREME COURT OF THE UNITED STATES.

#### *Samuel A. Worcester, Plaintiff in Error, vs. The State of Georgia.*

A writ of error was issued from the supreme court of the United States, directed to 'the honorable the judges of the superior court for the county of Gwinnett, in the state of Georgia,' commanding them to 'send to the said supreme court of the United States, the record and proceedings in the said superior court in the county of Gwinnett, between the state of Georgia, plaintiff, and Samuel A. Worcester, defendant, on an indictment in that court.'

This writ of error was returnable on the second Monday of January, 1832, and was attested by the honorable Henry Baldwin, one of the associate justices of the supreme court of the United States.

A citation was issued, directed to 'the state of Georgia,' dated October 27, 1831, and signed by the honorable Henry Baldwin, by which the said state was cited to show cause why the error in the judgment against Samuel A. Worcester, in the writ of error mentioned, if there was any error, should not be arrested, and why speedy justice should not be done to the parties in that behalf.

The citation was served on his excellency Wilson Lumpkin, governor of the state of Georgia, on the 24th November, 1831, and on Charles J. Jenkins, Esq. attorney general of the said state, on the 22d November, 1831.

The writ of error was returned to the supreme court of the United States, with the record of the proceedings in the court for the county of Gwinnett annexed thereto, and with the following certificate, under the seal of the court.

*Georgia, Gwinnett county, ss.*

I, John G. Park, clerk of the superior court for the county of Gwinnett, and state aforesaid, do certify that the annexed and foregoing is a full and complete exemplification of the proceedings and judgment had in said court, against Samuel A. Worcester, one of the defendants in the case therein mentioned as of record in the said superior court.

Given under my hand, and the seal of the court, this 28th day of Nov. 1831.

JOHN G. PARK, clerk.

*The following is a copy of the record :*

*Georgia, Gwinnett county :*

The grand jurors, sworn, chosen, and selected for the county of Gwinnett, — In the name and behalf of the citizens of Georgia, charge and accuse Elizur Butler, Samuel A. Worcester, James Trott, Samuel Mays, Surry Eaton, Austin Copeland, and Edward D. Losure, white persons of said county, with the offence of 'residing within the limits of the Cherokee nation, without a license : ' For that the said Elizur Butler, Samuel A. Worcester, James Trott, Samuel Mays, Surry Eaton, Austin Copeland, and Edward D. Losure, white persons as aforesaid, on the fifteenth day of July, eighteen hundred and thirtyone, *did reside* in that part of the Cherokee nation attached by the laws of said State to the said county, and in the county aforesaid, without a license or permit from his excellency the governor of said state, or from any agent authorised by

his excellency the governor aforesaid to grant such permit or license, and without having taken the oath to support and defend the constitution and laws of the state of Georgia, and uprightly to demean themselves as citizens thereof,

contrary to the laws of said state, the good order, peace, and dignity, thereof.

TURNER H. TRIPPE, *Sol. Gen'l.*

JNO. W. A. SANFORD, *Pros'r.*

True bill:—JOHN S. WILSON, *Foreman.*

SEPTEMBER, 1831.

GWINNETT SUPERIOR COURT, SEPTEMBER TERM, 1831.

*State of Georgia, vs. Samuel A. Worcester, Elizur Butler, and others.*

[Indictment for a misdemeanor.]

And the said Samuel A. Worcester, in his own proper person, comes and says, that this court ought not to take further cognizance of the action and prosecution aforesaid, because, he says, that, on the fifteenth day of July, in the year 1831, he was, and still is, a resident in the Cherokee nation; and that the said supposed crime, or crimes, and each of them, were committed, if committed at all, at the town of New Echota, in the said Cherokee nation, out of the jurisdiction of this court, and not in the county of Gwinnett, or elsewhere within the jurisdiction of this court. And this defendant saith, that he is a citizen of the state of Vermont, one of the United States of America, and that he entered the aforesaid Cherokee nation in the capacity of a duly authorised missionary of the American board of commissioners for foreign missions, under the authority of the President of the United States, and has not since been required by him to leave it: that he was, at the time of his arrest, engaged in preaching the gospel to the Cherokee Indians, and in translating the sacred scriptures into their language, with the permission and approval of the said Cherokee nation, and in accordance with the humane policy of the government of the United States, for the civilization and improvement of the Indians; and that his residence there, for this purpose, is the residence charged in the aforesaid indictment: and this defendant further saith, that this prosecution the state of Georgia ought not to have or maintain, because, he saith, that several treaties have, from time to time, been entered into between the United States and the Cherokee nation of Indians, to wit: at Hopewell, on the 28th day of November, 1785; at Holston, on the 2d day of July, 1791; at Philadelphia, on the 26th day of June, 1794; at Tellico, on the 2d day of October, 1798; at Tellico, on

the 24th day of October, 1804; at Tellico, on the 25th day of October, 1805; at Tellico, on the 27th day of October, 1805; at Washington city, on the 7th day of January, 1805; at Washington city, on the 22d day of March, 1816; at the Chickasaw council house, on the 14th day of September, 1816; at the Cherokee agency, on the 8th day of July, 1817, and at Washington city, on the 27th day of February, 1819; all which treaties have been duly ratified by the senate of the United States of America; and, by which treaties, the United States of America acknowledge the said Cherokee nation to be a sovereign nation, authorised to govern themselves, and all persons who have settled within their territory, free from any right of legislative interference by the several states composing the United States of America, in reference to acts done within their own territory; and, by which treaties, the whole of the territory now occupied by the Cherokee nation, on the east of the Mississippi, has been solemnly guaranteed to them; all of which treaties are existing treaties at this day, and in full force. By these treaties, and particularly by the treaties of Hopewell and Holston, the aforesaid territory is acknowledged to lie without the jurisdiction of the several states composing the union of the United States; and, it is thereby specially stipulated, that the citizens of the United States shall not enter the aforesaid territory, even on a visit, without a passport from the governor of a state, or from some one duly authorised thereto, by the president of the United States; all of which will more fully and at large appear, by reference to the aforesaid treaties. And this defendant saith, that the several acts charged in the bill of indictment, were done, or omitted to be done, if at all, within the said territory so recognised as belonging to the said nation,

and so as aforesaid, held by them, under the guaranty of the United States : that, for those acts, the defendant is not amenable to the laws of Georgia, nor to the jurisdiction of the courts of the said state ; and that the laws of the state of Georgia, which profess to add the said territory to the several adjacent counties of the said state, and to extend the laws of Georgia over the said territory, and persons inhabiting the same ; and, in particular, the act on which this indictment vs. this defendant is grounded, to wit : ‘ an act entitled an act to prevent the exercise of assumed and arbitrary power, by all persons, under pretext of authority from the Cherokee Indians, and their laws, and to prevent white persons from residing within that part of the chartered limits of Georgia, occupied by the Cherokee Indians, and to provide a guard for the protection of the gold mines, and to enforce the laws of the state within the aforesaid territory,’ are repugnant to the aforesaid treaties ; which, according to the constitution of the United States, compose a part of the supreme law of the land ; and that these laws of Georgia are, therefore, unconstitutional, void, and of no effect : that the said laws of Georgia are also unconstitutional and void, because they impair the obligation of the various contracts formed by and between the aforesaid Cherokee nation and the said United States of America, as above recited : also, that the said laws of Georgia are unconstitutional and void, because they interfere with, and attempt to regulate and control, the intercourse

with the said Cherokee nation, which, by the said constitution, belongs exclusively to the congress of the United States ; and because the said laws are repugnant to the statute of the United States, passed on the — day of March, 1802, entitled ‘ an act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers :’ and that, therefore, this court has no jurisdiction to cause this defendant to make further or other answer to the said bill of indictment, or further to try and punish this defendant for the said supposed offence or offences alleged in the bill of indictment, or any of them : and, therefore, this defendant prays judgment whether he shall be held bound to answer further to said indictment ?

*Georgia, Gwinnett county :*

Personally appeared in open court, Samuel A. Worcester, and, being sworn, saith, that the several matters and things contained in the above and foregoing plea, are true in substance and in fact.

Sworn to, and subscribed in open court, this 15th September, 1831.

SAMUEL A. WORCESTER.

JOHN G. PARK, clerk.

*September term, 1831.*

Pleas to the jurisdiction, &c, overruled by the court.

Arraigned, and plead not guilty.

Copy bill, and list of witnesses, waved,

T. H. TRIPPE, *Sol. Gen.*

*Verdict.*

We, the jury, find the defendants guilty.

JAMES H. GILREATH, *foreman.*

SEPTEMBER 15TH, 1831.

#### SENTENCE.

*The State, vs. B. F. Thompson, and others.*

[Indictment for residing in the Cherokee nation without license. Verdict, ‘ guilty.’]

*The State, vs. Elizur Butler, Samuel A. Worcester, and others.*

[Indictment for residing in the Cherokee nation without license. Verdict, ‘ guilty.’]

The defendants, in both of the above cases, shall be kept in close custody, by the sheriff of this county, until they can be transported to the penitentiary of this state, and the keeper thereof is hereby directed to receive them, and each of them, into his custody, and keep them, and each of them, at hard labor in said penitentiary for and during the term of four years.

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The case of Elizur Butler, plaintiff in

error, *versus* the state of Georgia, was brought before the supreme court in the same manner.

Both cases came on for argument on the 20th of February 1832, and they were argued by Mr Sergeant and Mr Wirt, for the plaintiffs in error. There was no appearance for the state of Georgia.

On the 3d day of March, 1832, Mr Chief Justice *Marshall* delivered the opinion of the court.



*Samuel A. Worcester, vs. The State of Georgia.*

[Opinion of the supreme court of the United States, delivered by Mr Chief Justice Marshall, at January term, 1832.]

This cause in every point of view in which it can be placed, is of the deepest interest.

The defendant is a state, a member of the Union, which has exercised the powers of government over a people who deny its jurisdiction, and are under the protection of the United States.

The plaintiff is a citizen of the state of Vermont, condemned to hard labor for four years in the penitentiary of Georgia, under color of an act which he alleges to be repugnant to the constitution, laws and treaties, of the United States.

The legislative power of a state, the controlling power of the constitution and laws of the United States, the rights, if they have any, the political existence of a once numerous and powerful people, the personal liberty of a citizen, are all involved in the subject now to be considered.

It behooves this court, in every case, more especially in this, to examine into its jurisdiction with scrutinizing eyes, before it proceeds to the exercise of a power which is controverted.

The first step in the performance of this duty is the inquiry whether the record is properly before the court.

It is certified by the clerk of the court which pronounced the judgment of condemnation under which the plaintiff in error is imprisoned, and is also authenticated by the seal of the court. It is returned with, and annexed to, a writ of error issued in regular form, the citation being signed by one of the associate justices of the supreme court, and served on the governor and attorney general of the state more than thirty days before the commencement of the term to which the writ of error was returnable.

The judicial act,\* so far as it prescribes the mode of proceeding, appears to have been literally pursued.

In February, 1797, a rule† was made on this subject, in the following words: 'It is ordered by the court, that the clerk of the court to which any writ of error shall be directed, may make return of the same by transmitting a true copy of the record, and of all proceedings in the same, under his hand and the seal of the court.'

This has been done. But the signature of the judge has not been added to that of the clerk. The law does not require it. The rule does not require it.

In the case of *Martin vs. Hunter's lessee*,‡ an exception was taken to the return of the refusal of the state court to enter a prior judgment of reversal by this court, because it was not made by the judge of the state court to which the writ was directed; but the exception was overruled, and the return was held sufficient. In *Buel vs. Van Ness*,§ also a writ of error to a state court, the record was authenticated in the same manner. No exception was taken to it. These were civil cases. But it has been truly said at the bar, that, in regard to this process, the law makes no distinction between a criminal and civil case. The same return is required in both. If the sanction of the court could be necessary for the establishment of this position, it has been silently given.

*McCulloh vs. the state of Maryland*,|| was a *qui tam* action, brought to recover a penalty, and the record was authenticated by the seal of the court and the signature of the clerk, without that of a judge. *Brown et al. vs. the state of Maryland*, was an indictment for a fine and forfeiture. The record in this case, too, was authenticated by the seal of the court and the certificate of the clerk. The practice is both ways.

The record, then, according to the judiciary act, and the rule and the practice of the court, is regularly before us. The more important inquiry is, does it exhibit a case cognizable by this tribunal?

The indictment charges the plaintiff in error, and others, being white persons, with the offence of 'residing within the limits of the Cherokee nation without a license,' and 'without having taken the oath to support and defend the constitution and laws of the state of Georgia.'

The defendant in the state court appeared in proper person, and filed the following plea:

'And the said Samuel A. Worcester, in his own proper person, comes and says, that this court ought not to take further cognizance of the action and prosecution aforesaid, because, he says,

\* Judicial act, sec. 22, 25, v. 2. pp. 64, 65.  
† 6 Wh. Rules.

‡ 1st. Wh. 304, 361.  
§ 8th Wh. 312.  
|| 4th Wh. 316.

that, on the 15th day of July, in the year 1831, he was, and still is, a resident in the Cherokee nation; and that the said supposed crime or crimes, and each of them, were committed, if committed at all, at the town of New Echota, in the said Cherokee nation, out of the jurisdiction of this court, and not in the county Gwinnett, or elsewhere within the jurisdiction of this court: And this defendant saith, that he is a citizen of the state of Vermont, one of the United States of America, and that he entered the aforesaid Cherokee nation in the capacity of a duly authorised missionary of the American board of commissioners for foreign missions, under the authority of the President of the United States, and has not since been required by him to leave it: that he was, at the time of his arrest, engaged in preaching the gospel to the Cherokee Indians, and in translating the sacred Scriptures into their language, with the permission and approval of the said Cherokee nation, and in accordance with the humane policy of the government of the United States for the civilization and improvement of the Indians; and that his residence there, for this purpose, is the residence charged in the aforesaid indictment: and this defendant further saith, that this prosecution the State of Georgia ought not to have or maintain, because, he saith, that several treaties have, from time to time, been entered into between the United States and the Cherokee nation of Indians, to wit: at Hopewell, on the 28th day of November, 1785; at Holston, on the 2d day of July, 1791; at Philadelphia, on the 26th day of June, 1794; at Tellico, on the 2d day of October, 1798; at Tellico, on the 24th day of October, 1804; at Tellico, on the 25th day of October, 1805; at Tellico, on the 27th day of October, 1805; at Washington city, on the 7th day of January, 1805; at Washington city, on the 22d day of March, 1816; at the Chickasaw council house, on the 14th day of September, 1816; at the Cherokee agency, on the 8th day of July, 1817; and at Washington city, on the 27th day of February, 1819: all which treaties have been duly ratified by the senate of the United States of America; and, by which treaties, the United States of America acknowledge the said Cherokee nation to be a sovereign nation, authorised to govern themselves, and all persons who have settled within their territory, free from any right of legislative interference by the several states composing the United States of America, in reference to acts done within

their own territory; and, by which treaties, the whole of the territory now occupied by the Cherokee nation, on the east of the Mississippi has been solemnly guaranteed to them; all of which treaties are existing treaties at this day, and in full force. By these treaties, and particularly by the treaties of Hopewell and Holston, the aforesaid territory is acknowledged to lie without the jurisdiction of the several states composing the union of the United States; and, it is thereby specially stipulated, that the citizens of the United States shall not enter the aforesaid territory, even on a visit, without a passport from the governor of a state, or from some one duly authorised thereto, by the president of the United States: all of which will more fully and at large appear, by reference to the aforesaid treaties. And this defendant saith, that the several acts charged in the bill of indictment, were done, or omitted to be done, if at all, within the said territory so recognised as belonging to the said nation, and so, as aforesaid, held by them, under the guaranty of the United States; that, for those acts, the defendant is not amenable to the laws of Georgia, nor to the jurisdiction of the courts of the said state; and that the laws of the state of Georgia, which profess to add the said territory to the several adjacent counties of the said state, and to extend the laws of Georgia over the said territory, and persons inhabiting the same; and, in particular, the act on which this indictment vs. this defendant is grounded, to wit; 'An act entitled an act to prevent the exercise of assumed and arbitrary power, by all persons, under pretext of authority from the Cherokee Indians, and their laws, and to prevent white persons from residing within that part of the chartered limits of Georgia, occupied by the Cherokee Indians, and to provide a guard for the protection of the gold mines, and to enforce the laws of the state within the aforesaid territory,' are repugnant to the aforesaid treaties; which, according to the constitution of the United States, compose a part of the supreme law of the land; and that these laws of Georgia are, therefore, unconstitutional, void, and of no effect; that the said laws of Georgia are also unconstitutional and void, because they impair the obligation of the various contracts formed by and between the aforesaid Cherokee nation and the said United States of America, as above recited; also, that the said laws of Georgia are unconstitutional and void, because they interfere with, and attempt to regulate

and control the intercourse with the said Cherokee nation, which, by the said constitution, belongs exclusively to the Congress of the United States; and because the said laws are repugnant to the statute of the United States, passed on the — day of March, 1802, entitled 'An act, to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;' and that, therefore, this court has no jurisdiction to cause this defendant to make further or other answer to the said bill of indictment, or further to try and punish this defendant for the said supposed offence or offences alleged in the bill of indictment, or any of them; and, therefore, this defendant prays judgment whether he shall be held bound to answer further to said indictment.'

This plea was overruled by the court. And the prisoner, being arraigned, pleaded not guilty. The jury found a verdict against him, and the court sentenced him to hard labor, in the penitentiary, for the term of four years.

By overruling this plea, the court decided that the matter it contained was not a bar to the action. The plea, therefore, must be examined, for the purpose of determining whether it makes a case which brings the party within the provisions of the 25th section of the 'Act to establish the judicial courts of the United States.'

The plea avers that the residence, charged in the indictment, was under the authority of the president of the United States, and with the permission and approval of the Cherokee nation. That the treaties, subsisting between the United States and the Cherokees, acknowledge their right as a sovereign nation to govern themselves and all persons who have settled within their territory, free from any right of legislative interference by the several states composing the United States of America. That the act under which the prosecution was instituted is repugnant to the treaties, and is, therefore, unconstitutional and void. That the said act is, also, unconstitutional; because it interferes with, and attempts to regulate and control the intercourse with the Cherokee nation, which belongs, exclusively, to congress; and, because, also, it is repugnant to the statute of the United States, entitled 'An act to regulate trade, and intercourse with the Indian tribes and to preserve peace on the frontiers.'

Let the averments of this plea be compared with the 25th section of the judicial act.

That section enumerates the cases in which the final judgment or decree of a state court may be revised in the supreme court of the United States. These are, 'where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any state, on the ground of their being repugnant to the constitution, treaties, or laws, of the United States, and the decision is in favor of such their validity; or where is drawn in question the construction of any clause of the constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision is against the title, right, privilege or exemption, specially set up or claimed by either party, under such clause of the said constitution, treaty, statute, or commission.'

The indictment and plea, in this case, draw in question, we think, the validity of the treaties made by the United States with the Cherokee Indians: if not so, their construction is certainly drawn in question; and the decision has been, if not against their validity, 'against the right, privilege, or exemption, specially set up and claimed under them.' They also draw into question the validity of a statute of the state of Georgia, 'on the ground of its being repugnant to the constitution, treaties and laws, of the United States, and the decision is in favor of its validity.'

It is then, we think, too clear for controversy, that the act of congress, by which this court is constituted, has given it the power, and, of course, imposed on it the duty of exercising jurisdiction in this case. This duty, however unpleasant, cannot be avoided. Those who fill the judicial department have no discretion in selecting the subjects to be brought before them. We must examine the defence set up in this plea. We must inquire and decide whether the act of the legislature of Georgia, under which the plaintiff in error has been prosecuted and condemned; be consistent with, or repugnant to, the constitution, laws and treaties, of the United States.

It has been said at the bar, that the acts of the legislature of Georgia seized on the whole Cherokee country, parcel it out among the neighboring counties of the state, extend her code over the whole country, abolish its institutions and its laws, and annihilate its political existence.



If this be the general effect of the system, let us inquire into the effect of the particular statute and section on which the indictment is founded.

It enacts that 'all white persons, residing within the limits of the Cherokee nation on the first day of March next, or at any time thereafter, without a license or permit from his excellency the governor, or from such agent as his excellency the governor shall authorise to grant such permit or license, and who shall not have taken the oath hereinafter required, shall be guilty of a high misdemeanor, and, upon conviction thereof, shall be punished by confinement to the penitentiary at hard labor, for a term not less than four years.'

The 11th section authorises the governor, 'should he deem it necessary for the protection of the mines, or the enforcement of the laws in force within the Cherokee nation, to raise and organize a guard,' &c.

The 13th section enacts, 'that the said guard or any member of them, shall be, and they are hereby, authorised and empowered to arrest any person legally charged with or detected in a violation of the laws of this state, and to convey, as soon as practicable, the person so arrested, before a justice of the peace, judge of the superior, or justice of inferior court of this state, to be dealt with according to law.'

The extra territorial power of every legislature being limited in its action, to its own citizens or subjects, the very passage of this act is an assertion of jurisdiction over the Cherokee nation, and of the rights and powers consequent on jurisdiction.

The first step, then, in the inquiry which the constitution and laws impose on this court, is an examination of the rightfulness of this claim.

America, separated from Europe by a wide ocean, was inhabited by a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws. It is difficult to comprehend the proposition, that the inhabitants of either quarter of the globe could have rightful original claims of dominion over the inhabitants of the other, or over the lands they occupied; or that the discovery of either by the other should give the discoverer, rights to the country discovered, which annulled the pre-existing rights of its ancient possessors.

After lying concealed for a series of ages, the enterprise of Europe, guided by nautical science, conducted some of

her adventurous sons into this western world. They found it in possession of a people who had made small progress in agriculture or manufactures, and whose general employment was war, hunting and fishing.

Did these adventurers, by sailing along the coast, and occasionally landing on it, acquire for the several governments to whom they belonged, or by whom they were commissioned, a rightful property in the soil, from the Atlantic to the Pacific; or rightful dominion over the numerous people who occupied it? Or has nature, or the great Creator of all things conferred these rights over hunters and fishermen, on agriculturists and manufacturers?

But power, war, conquest, give rights, which, after possession, are conceded by the world, and which can never be controverted by those on whom they descend. We proceed, then, to the actual state of things, having glanced at their origin; because holding it in our recollection might shed some light on existing pretensions.

The great maritime powers of Europe discovered and visited different parts of this continent at nearly the same time. The object was too immense for any one of them to grasp the whole; and the claimants were too powerful to submit to the exclusive or unreasonable pretensions of any single potentate. To avoid bloody conflicts, which might terminate disastrously to all, it was necessary for the nations of Europe to establish some principle which all would acknowledge, and which should decide their respective rights as between themselves. This principle, suggested by the actual state of things, was, 'that discovery gave title to the government by whose subjects or by whose authority it was made, against all other European governments, which title might be consummated by possession.'<sup>\*</sup>

This principle, acknowledged by all Europeans, because it was the interest of all to acknowledge it, gave to the nation making the discovery, as its inevitable consequence, the sole right of acquiring the soil and of making settlements on it. It was an exclusive principle, which shut out the right of competition among those who had agreed to it; not one which could annul the previous rights of those who had not agreed to it. It regulated the right given by discovery among the European discoverers; but could not effect the rights of

those already in possession, either as aboriginal occupants, or as occupants by virtue of a discovery made before the memory of man. It gave the exclusive right to purchase, but did not found that right on a denial of the right of the possessor to sell.

The relation between the Europeans and the natives was determined in each case by the particular government which asserted and could maintain this pre-emptive privilege in the particular place. The United States succeeded to all the claims of Great Britain, both territorial and political, but no attempt, so far as is known, has been made to enlarge them. So far as they existed merely in theory, or were in their nature only exclusive of the claims of other European nations, they still retain their original character, and remain dormant. So far as they have been practically exerted, they exist in fact, are understood by both parties, are asserted by the one, and admitted by the other.

Soon after Great Britain determined on planting colonies in America, the king granted charters to companies of his subjects, who associated for the purpose of carrying the views of the crown into effect, and of enriching themselves. The first of these charters was made before possession was taken of any part of the country. They purport generally to convey the soil, from the Atlantic to the south sea. This soil was occupied by numerous and warlike nations, equally willing and able to defend their possessions. The extravagant and absurd idea, that the feeble settlements made on the sea coast, or the companies under whom they were made, acquired legitimate power by them to govern the people, or occupy the lands from sea to sea, did not enter the mind of any man. They were well understood to convey the title which, according to the common law of European sovereigns respecting America, they might rightfully convey, and no more. This was the exclusive right of purchasing such lands as the natives were willing to sell. The crown could not be understood to grant that the crown did not affect to claim, nor was it so understood.

The power of making war is conferred by these charters on the colonies, but defensive war alone seems to have been contemplated. In the first charter to the first and second colonies, they are empowered, 'for their several defences, to encounter, expulse, repel, and resist, all persons who shall, without license,

attempt to inhabit, within the said precincts and limits of the said several colonies, or that shall enterprise or attempt at any time hereafter the least detriment or annoyance of the said several colonies or plantations.'

The charter to Connecticut concludes a general power to make defensive war with these terms: 'and upon just causes to invade and destroy the natives or other enemies of the said colony.'

The same power, in the same words, is conferred on the government of Rhode Island.

This power to repel invasion, and, upon just cause, to invade and destroy the natives, authorises offensive as well as defensive war, but only 'on just cause.' The very terms imply the existence of a country to be invaded, and of an enemy who has given just cause of war.

The charter to William Penn contains the following recital: 'and because, in so remote a country, near so many barbarous nations, the incursions, as well of the savages themselves, as of other enemies, pirates, and robbers, may probably be feared, therefore we have given,' &c. The instrument then confers the power of war.

These barbarous nations, whose incursions were feared, and to repel whose incursions the power to make war was given, were surely not considered as the subjects of Penn, or occupying his lands during his pleasure.

The same clause is introduced into the charter to lord Baltimore.

The charter to Georgia professes to be granted for the charitable purpose of enabling poor subjects to gain a comfortable subsistence by cultivating lands in the American provinces, 'at present waste and desolate.' It recites: 'and whereas our provinces in North America have been frequently ravaged by Indian enemies; more especially that of South Carolina, which, in the late war by the neighboring savages, was laid waste by fire and sword, and great numbers of the English inhabitants miserably massacred; and our loving subjects, who now inhabit there, by reason of the smallness of their numbers, will, in case of any new war, be exposed to the like calamities, inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages.'

These motives for planting the new colony are incompatible with the lofty ideas of granting the soil and all its inhabitants from sea to sea. They demonstrate the truth, that these grants asserted a title against Europeans only,

and were considered as blank paper so far as the rights of the natives were concerned. The power of war is given only for defence, not for conquest.

The charters contain passages showing one of their objects to be the civilization of the Indians, and their conversion to christianity — objects to be accomplished by conciliatory conduct, and good example; not by extermination.

The actual state of things, and the practice of European nations, on so much of the American continent as lies between the Mississippi and the Atlantic, explain their claims and the charters they granted. Their pretensions unavoidably interfered with each other; though the discovery of one was admitted by all to exclude the claim of any other, the extent of that discovery was the subject of unceasing contest. — Bloody conflicts arose between them, which gave importance and security to the neighboring nations. Fierce and warlike in their character, they might be formidable enemies, or effective friends. Instead of rousing their resentments, by asserting claims to their lands, or to dominion over their persons, their alliance was sought by flattering professions, and purchase by rich presents. The English, the French, and the Spaniards, were equally competitors for their friendship and their aid. Not well acquainted with the exact meaning of words, nor supposing it to be material whether they were called the subjects, or the children of their father in Europe; lavish in professions of duty and affection, in return for the rich presents they received; so long as their actual independence was untouched, and their right to self government acknowledged, they were willing to profess dependence on the power which furnished supplies of which they were in absolute need, and restrained dangerous intruders from entering their country: and this was probably the sense in which the term was understood by them.

Certain it is, that our history furnishes no example, from the first settlement of our country, of any attempt, on the part of the crown, to interfere with the internal affairs of the Indians, farther than to keep out the agents of foreign powers, who, as traders or otherwise, might seduce them into foreign alliances. The king purchased their lands when they were willing to sell, at a price they were willing to take; but never coerced a surrender of them. He also purchased their alliance and dependence by subsidies; but never intruded into

the interior of their affairs, or interfered with their self government, so far as respected themselves only.

The general views of Great Britain, with regard to the Indians, were detailed by Mr Stuart, superintendent of Indian affairs, in a speech delivered at Mobile, in presence of several persons of distinction, soon after the peace of 1763. Towards the conclusion he says, 'lastly, I inform you that it is the king's order to all his governors and subjects to treat the Indians with justice and humanity, and to forbear all encroachments on the territories allotted to them; accordingly, all individuals are prohibited from purchasing any of your lands: but, as you know that as your white brethren cannot feed you when you visit them, unless you give them ground to plant, it is expected that you will cede lands to the king for that purpose. But, whenever you shall be pleased to surrender any of your territories to his majesty, it must be done, for the future, at a public meeting of your nation, when the governors of the provinces, or the superintendent shall be present, and obtain the consent of all your people. The boundaries of your hunting grounds will be accurately fixed, and no settlement permitted to be made upon them. As you may be assured that all treaties with you will be faithfully kept, so it is expected that you, also, will be careful strictly to observe them.'

The proclamation issued by the king of Great Britain, in 1763, soon after the ratification of the articles of peace, forbids the governors of any of the colonies to grant warrants of survey, or pass patents upon any lands whatever, which, not having been ceded to, or purchased by us, (the king), as aforesaid, are reserved to the said Indians, or any of them.

The proclamation proceeds: 'and we do further declare it to be our royal will and pleasure, for the present, as aforesaid, to reserve, under our sovereignty, protection, and dominion, for the use of the said Indians, all the lands and territories lying to the westward of the sources of the rivers which fall into the sea, from the west and northwest as aforesaid: and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our special leave and license for that purpose first obtained.

'And we do further strictly enjoin and require all persons whatever, who



have, either wilfully or inadvertently, seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to, or purchased by us, are still reserved to the said Indians, as aforesaid, forthwith to remove themselves from such settlements.'

A proclamation, issued by Gov. Gage in 1772, contains the following passage: 'Whereas many persons, contrary to the positive orders of the king upon this subject, have undertaken to make settlements beyond the boundaries fixed by the treaties made with the Indian nations, which boundaries ought to serve as a barrier between the whites and the said nations;' particularly on the Ouabache, the proclamation orders such persons to quit those countries without delay.

Such was the policy of Great Britain towards the Indian nations inhabiting the territory from which she excluded all other Europeans; such her claims, and such her practical exposition of the charters she had granted: she considered them as nations capable of maintaining the relations of peace and war; of governing themselves, under her protection; and she made treaties with them, the obligation of which she acknowledged.

This was the settled state of things when the war of our revolution commenced. The influence of our enemy was established; her resources enabled her to keep up that influence; and the colonists had much cause for the apprehension that the Indian nations would, as the allies of Great Britain, add their arms to hers. This, as was to be expected, became an object of great solicitude to Congress. Far from advancing a claim to their lands, or asserting any right of dominion over them, Congress resolved, 'that the securing and preserving the friendship of the Indian nations appears to be a subject of the utmost moment to these colonies.'

The early journals of Congress exhibit the most anxious desire to conciliate the Indian nations. Three Indian departments were established, and commissioners appointed in each, 'to treat with the Indians in their respective departments, in the name and on behalf of the United Colonies, in order to preserve peace and friendship with the said Indians, and to prevent their taking any part in the present commotions'

The most strenuous exertions were made to procure those supplies on which Indian friendships were supposed to

depend, and everything which might excite hostility was avoided.

The first treaty was made with the Delawares, in September, 1778.

The language of equality in which it is drawn, evinces the temper with which the negotiation was undertaken, and the opinion which then prevailed in the United States.

'1st. That all offences or acts of hostilities, by one or either of the contracting parties against the other, be mutually forgiven, and buried in the depth of oblivion, never more to be had in remembrance.

'2d. That a perpetual peace and friendship shall, from henceforth, take place and subsist between the contracting parties aforesaid, through all succeeding generations: and if either of the parties are engaged in a just and necessary war with any other nation or nations, that then each shall assist the other, in due proportion to their abilities, till their enemies are brought to reasonable terms of accommodation,' &c.

3d. The third article stipulates, among other things, a free passage for the American troops through the Delaware nation, and engages, that they shall be furnished with provisions and other necessaries at their value.

'4th. For the better security of the peace and friendship now entered into by the contracting parties against all infractions of the same by the citizens of either party, to the prejudice of the other, neither party shall proceed to the infliction of punishments on the citizens of the other, otherwise than by securing the offender or offenders, by imprisonment, or any other competent means, till a fair and impartial trial can be had, by judges or juries of both parties, as near as can be to the laws, customs and usages of the contracting parties, and natural justice,' &c.

5th. The fifth article regulates the trade between the contracting parties, in a manner entirely equal.

6th. The sixth article is entitled to peculiar attention, as it contains a disclaimer of designs which were, at that time, ascribed to the United States by their enemies, and from the imputation of which Congress was then peculiarly anxious to free the government. It is in these words:

'Whereas the enemies of the United States have endeavored, by every artifice in their power, to possess the Indians in general with an opinion that it is the design of the States aforesaid to extirpate the Indians, and take posses-

sion of their country. To obviate such false suggestions, the United States do engage to guaranty to the aforesaid nation of Delawares, and their heirs, all their territorial rights, in the fullest and most ample manner, as it hath been bounded by former treaties, as long as the said Delaware nation shall abide by, and hold fast, the chain of friendship now entered into.'

The parties further agree, that other tribes, friendly to the interest of the United States, may be invited to form a State, whereof the Delaware nation shall be the heads, and have a representation in Congress.

This treaty, in its language and in its provisions, is formed, as near as may be, on the model of treaties between the crowned heads of Europe.

The sixth article shows how Congress then treated the injurious calumny of cherishing designs unfriendly to the political and civil rights of the Indians.

During the war of the revolution, the Cherokees took part with the British. After its termination, the United States, though desirous of peace, did not feel its necessity so strongly as while the war continued. Their political situation being changed, they might very well think it advisable to assume a higher tone, and to impress on the Cherokees the same respect for Congress which was before felt for the king of Great Britain. This may account for the language of the treaty of Hopewell. There is the more reason for supposing that the Cherokee chiefs were not very critical judges of the language, from the fact that every one makes his mark; no chief was capable of signing his name. It is probable the treaty was interpreted to them.

The treaty is introduced with the declaration, that 'The commissioners plenipotentiary of the United States give peace to all the Cherokees, and receive them into the favor and protection of the United States of America, on the following conditions.'

When the United States gave peace, did they not also receive it? Were not both parties desirous of it? If we consult the history of the day, does it not inform us that the United States were at least as anxious to obtain it as the Cherokees? We may ask, further: Did the Cherokees come to the seat of the American government to solicit peace; or did the American commissioners go to them to obtain it? The treaty was made at Hopewell, not at New York. The word 'give,' then, has no real importance attached to it.

The first and second articles stipulate for the mutual restoration of prisoners, and are of course equal.

The third article acknowledges the Cherokees to be under the protection of the United States of America, and of no other power.

This stipulation is found in Indian treaties, generally. It was introduced into their treaties with Great Britain; and may probably be found in those with other European powers. Its origin may be traced to the nature of their connection with those powers; and its true meaning is discerned in their relative situation.

The general law of European sovereigns, respecting their claims in America, limited the intercourse of Indians, in a great degree, to the particular potentate whose ultimate right of domain was acknowledged by the others. This was the general state of things in time of peace. It was sometimes changed in war. The consequence was, that their supplies were derived chiefly from that nation, and their trade confined to it. Goods, indispensable to their comfort, in the shape of presents, were received from the same hand. What was of still more importance, the strong hand of government was interposed to restrain the disorderly and licentious from intrusions into their country, from encroachments on their lands, and from those acts of violence which were often attended by reciprocal murder. The Indians perceived in this protection, only what was beneficial to themselves — an engagement to punish aggressions on them. It involved practically no claim to their lands, no dominion over their persons. It merely bound the nation to the British crown, as a dependent ally, claiming the protection of a powerful friend and neighbor, and receiving the advantages of that protection, without involving a surrender of their national character.

This is the true meaning of the stipulation, and is undoubtedly the sense in which it was made. Neither the British government, nor the Cherokees, ever understood it otherwise.

The same stipulation entered into with the United States, is undoubtedly to be construed in the same manner. They receive the Cherokee nation into their favor and protection. The Cherokees acknowledge themselves to be under the protection of the United States, and of no other power. Protection does not imply the destruction of the protected. The manner in which this stipulation was understood by the American gov-

ernment, is explained by the language and acts of our first President.

The fourth article draws the boundary between the Indians and the citizens of the United States. But, in describing this boundary, the term 'allotted' and the term 'hunting-ground' are used.

Is it reasonable to suppose, that the Indians, who could not write, and most probably could not read, who certainly were not critical judges of our language, should distinguish the word 'allotted' from the words 'marked out.' The actual subject of contract was the dividing line between the two nations, and their attention may very well be supposed to have been confined to that subject. When, in fact, they were ceding lands to the United States, and describing the extent of their cession, that it must, we think, be taken in the sense in which it was most obviously used.

So with respect to the words 'hunting grounds.' Hunting was at that time the principal occupation of the Indians, and their land was more used for that purpose than for any other. It could not, however, be supposed, that any intention existed of restricting the full use of the lands they reserved.

To the United States, it could be a matter of no concern whether their whole territory was devoted to hunting grounds, or whether an occasional village and an occasional corn-field interrupted, and gave some variety to the scene.

These terms had been used in their treaties with Great Britain, and had never been misunderstood. They had never been supposed to imply a right in the British government to take their lands, or to interfere with their internal government.

The fifth article withdraws the protection of the United States from any citizen who has settled, or shall settle on the lands allotted to the Indians for their hunting grounds; and stipulates, that if he shall not remove within six months, the Indians may punish him.

The sixth and seventh articles stipulate for the punishment of the citizens of either country, who may commit offences on or against the citizens of the other. The only inference to be drawn

from them is, that the United States considered the Cherokees as a nation.

The ninth article is in these words: 'For the benefit and comfort of the Indians, and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States, in Congress assembled, shall have the sole and exclusive right of regulating the trade with the Indians, and *managing all their affairs* as they think proper.'

To construe the expression 'managing all their affairs,' into a surrender of self government, would be, we think, a perversion of their necessary meaning, and a departure from the construction which has been uniformly put on them. The great subject of the article is the Indian trade. The influence it gave, made it desirable that Congress should possess it. The commissioners brought forward the claim, with the profession that their motive was 'the benefit and comfort of the Indians, and the prevention of injuries or oppressions.' This may be true, as respects the regulation of their trade, and as respects the regulation of all affairs connected with their trade, but cannot be true as respects the management of all their affairs. The most important of these is the cession of their lands, and security against intruders on them. Is it credible, that they could have considered themselves as surrendering to the United States the right to dictate their future cessions, and the terms on which they should be made? Or to compel their submission to the violence of disorderly and licentious intruders? It is equally inconceivable that they could have supposed themselves, by a phrase thus slipped into an article, on another and most interesting subject, to have divested themselves of the right of self government on subjects not connected with trade. Such a measure could not be 'for their benefit and comfort,' or for 'the prevention of injuries and oppressions.' Such a construction would be inconsistent with the spirit of this and of all subsequent treaties; especially of those articles which recognise the right of the Cherokees to declare hostilities, and to make war. It would convert a treaty of peace covertly into an act, annihilating the political existence of one of the parties. Had such a result been intended, it would have been openly avowed.

This treaty contains a few terms capable of being used in a sense which could not have been intended at the time, and which is inconsistent with the



practical construction which has always been put on them; but its essential articles treat the Cherokees as a nation capable of maintaining the relations of peace and war; and ascertain the boundaries between them and the United States.

The treaty of Hopewell seems not to have established a solid peace. To accommodate the differences still existing between the State of Georgia and the Cherokee nation, the treaty of Holston was negotiated in July, 1791. The existing constitution of the United States had been then adopted, and the government, having more intrinsic capacity to enforce its just claims, was perhaps less mindful of high sounding expressions, denoting superiority. We hear no more of giving peace to the Cherokees. The mutual desire of establishing permanent peace and friendship, and of removing all causes of war, is honestly avowed, and in pursuance of this desire, the first article declares that there shall be perpetual peace and friendship between all the citizens of the United States of America, and all the individuals composing the Cherokee nation.

The second article repeats the important acknowledgment, that the Cherokee nation is under the protection of the United States of America, and of no other sovereign whosoever.

The meaning of this has been already explained. The Indian nations were, from their situation, necessarily dependent on some foreign potentate for the supply of their essential wants, and for their protection from lawless and injurious intrusions into their country. That power was naturally termed their protector. They had been arranged under the protection of Great Britain; but the extinguishment of the British power in their neighborhood, and the establishment of that of the United States in its place, led naturally to the declaration, on the part of the Cherokees, that they were under the protection of the United States, and of no other power. They assumed the relation with the United States which had before subsisted with Great Britain.

This relation was that of a nation claiming and receiving the protection of one more powerful: not that of individuals abandoning their national character, and submitting as subjects to the laws of a master.

The third article contains a perfectly equal stipulation for the surrender of prisoners.

The fourth article declares, that 'the

boundary, between the United States and the Cherokee nation, shall be as follows: beginning,' &c. We hear no more of 'allotments' or of 'hunting grounds.' A boundary is described between nation and nation, by mutual consent. The national character of each, the ability of each to establish this boundary, is acknowledged by the other. To preclude forever all disputes, it is agreed that it shall be plainly marked by commissioners, to be appointed by each party; and, in order to extinguish forever all claim of the Cherokees to the ceded lands, an additional consideration is to be paid by the United States. For this additional consideration the Cherokees release all right to the ceded land, forever.

By the fifth article, the Cherokees allow the United States a road through their country, and the navigation of the Tennessee river. The acceptance of these cessions is an acknowledgment of the right of the Cherokees to make or withhold them.

By the sixth article, it is agreed, on the part of the Cherokees, that the United States shall have the sole and exclusive right of regulating their trade. No claim is made to the management of their affairs. This stipulation has already been explained. The observation may be repeated, that the stipulation is itself an admission of their right to make or refuse it.

By the seventh article, the United States solemnly guaranty to the Cherokee nation all their lands not hereby ceded.

The eighth article relinquishes to the Cherokees any citizens of the United States who may settle on their lands; and the ninth forbids any citizen of the United States to hunt on their lands, or to enter their country without a passport.

The remaining articles are equal, and contain stipulations which could be made only with a nation admitted to be capable of governing itself.

This treaty, thus explicitly recognising the national character of the Cherokees, and their right of self government; thus guarantying their lands; assuming the duty of protection, and of course pledging the faith of the United States for that protection; has been frequently renewed, and is now in full force.

To the general pledge of protection, have been added several specific pledges, deemed valuable by the Indians. Some of these restrain the citizens of the United States from encroach-

ments on the Cherokee country, and provide for the punishment of intruders.

From the commencement of our government, Congress has passed acts to regulate trade and intercourse with the Indians, which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States.

In 1819, Congress passed an act for promoting these humane designs of civilizing the neighboring Indians, which had long been cherished by the executive. It enacts, 'that, for the purpose of providing against the further decline and final extinction of the Indian tribes adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the President of the United States shall be, and he is hereby, authorized, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced, *with their own consent*, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing and arithmetic; and for performing such other duties as may be enjoined, according to such instructions and rules as the President may give and prescribe for the regulation of their conduct in the discharge of their duties.'

This act avowedly contemplates the preservation of the Indian nations as an object sought by the United States, and proposes to effect this object by civilizing and converting them from hunters into agriculturists. Though the Cherokees had already made considerable progress in this improvement, it cannot be doubted that the general words of the act comprehend them. Their advance in the 'habits and arts of civilization,' rather encouraged perseverance in the laudable exertions still farther to meliorate their condition. This act furnishes strong additional evidence of a settled purpose to fix the Indians in their country by giving them security at home.

The treaties and laws of the United States contemplate the Indian territory

as completely separated from that of the States; and provide that all intercourse with them shall be carried on exclusively by the Government of the Union.

Is this the rightful exercise of power, or is it usurpation?

While these States were colonies, this power, in its utmost extent, was admitted to reside in the crown. When our revolutionary struggle commenced, Congress was composed of an assemblage of deputies acting under specific powers granted by the legislatures, or conventions of the several colonies. It was a great popular movement, not perfectly organized, nor were the respective powers of those who were entrusted with the management of affairs accurately defined. The necessities of our situation produced a general conviction that those measures which concerned all, must be transacted by a body in which the representatives of all were assembled, and which could command the confidence of all; Congress, therefore, was considered as invested with all the powers of war and peace, and Congress dissolved our connection with the mother country, and declared these United Colonies to be independent States. Without any written definition of powers, they employed diplomatic agents to represent the United States at the several courts of Europe; offered to negotiate treaties with them, and did actually negotiate treaties with France. From the same necessity, and on the same principles, Congress assumed the management of Indian affairs; first in the name of these United Colonies, and afterwards in the name of the United States. Early attempts were made at negotiation, and to regulate trade with them. These not proving successful, war was carried on under the direction, and with the forces, of the United States, and the efforts to make peace, by treaty, were earnest and incessant. The confederation found Congress in the exercise of the same powers of peace and war, in our relations with the Indian nations, as with those of Europe. Such was the state of things when the confederation was adopted. That instrument surrendered the powers of peace and war to Congress, and prohibited them to the States, respectively, unless a State be actually invaded, 'or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of delay till the United States, in Congress assembled, can be consulted.' This instrument also gave the United States in

Congress assembled the sole and exclusive right of 'regulating the trade and managing all the affairs with the Indians, not members of any of the States: *Provided*, That the legislative power of any State within its own limits be not infringed or violated.'

The ambiguous phrases which follow the grant of power to the United States, were so construed by the States of North Carolina and Georgia as to annul the power itself. The discontents and confusion resulting from these conflicting claims, produced representations to Congress, which were referred to a committee, who made their report in 1787. The report does not assent to the construction of the two States, but recommends an accommodation, by liberal cessions of territory, or by an admission, on their part, of the powers claimed by Congress. The correct exposition of this article is rendered unnecessary by the adoption of our existing constitution. That instrument confers on Congress the powers of war and peace; of making treaties, and of regulating commerce with foreign nations, and among the several States, and *with the Indian tribes*. These powers comprehend all that is required for the regulation of our intercourse with the Indians. They are not limited by any restrictions on their free actions. The shackles imposed on this power, in the confederation, are discarded.

The Indian nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial, with the single exception of that imposed by irresistible power, which excluded them from intercourse with any other European potentate than the first discoverer of the coast of the particular region claimed; and this was a restriction which those European potentates imposed on themselves, as well as on the Indians. The very term 'nation,' so generally applied to them, means 'a people distinct from others.' The constitution, by declaring treaties already made, as well as those to be made, to be the supreme law of the land, has adopted and sanctioned the previous treaties with the Indian nations, and, consequently, admits their rank among those powers who are capable of making treaties. The words 'treaty' and 'nation,' are words of our own language, selected in our diplomatic and legislative proceedings, by ourselves, having each a definite and

well understood meaning. We have applied them to Indians, as we have applied them to the other nations of the earth. They are applied to all in the same sense.

Georgia, herself, has furnished conclusive evidence that her former opinions on this subject concurred with those entertained by her sister States, and by the government of the United States. Various acts of her legislature have been cited in the argument, including the contract of cession made in the year 1802, all tending to prove her acquiescence in the universal conviction that the Indian nations possessed a full right to the lands they occupied, until that right should be extinguished by the United States, with their consent; that their territory was separated from that of any State within whose chartered limits they might reside, by a boundary line, established by treaties; that, within their boundary, they possessed rights with which no State could interfere; and that the whole power of regulating the intercourse with them, was vested in the United States. A review of these acts, on the part of Georgia, would occupy too much time, and is the less necessary because they have been accurately detailed in the argument at the bar. Her new series of laws, manifesting her abandonment of these opinions, appears to have commenced in December, 1828.

In opposition to this original right, possessed by the undisputed occupants of every country, to this recognition of that right, which is evidenced by our history, in every change through which we have passed, is placed the charters granted by the monarch of a distant and distinct region, parcelling out a territory in possession of others, whom he could not remove, and did not attempt to remove, and the cession made of his claims by the treaty of peace.

The actual state of things at the time, and all history since, explain these charters; and the king of Great Britain, at the treaty of peace, could cede only what belonged to his crown. These newly asserted titles can derive no aid from the articles so often repeated in Indian treaties, extending to them, first, the protection of Great Britain, and afterwards, that of the United States. These articles are associated with others, recognizing their title to self government. The very fact of repeated treaties with them, recognises it; and the settled doctrine of the law of nations is, that a weaker power does not surrender



its independence — its right to self government — by associating with a stronger, and taking its protection. A weak state, in order to provide for its safety, may place itself under the protection of one more powerful, without stripping itself of the right of government, and ceasing to be a state. Examples of this kind are not wanting in Europe. 'Tributary and feudatory states,' says Vattel, 'do not hereby cease to be sovereign and independent states, so long as self government and sovereign and independent authority is left in the administration of the state.' At the present day, more than one state may be considered as holding its right of self government under the guarantee and protection of one or more allies.

The Cherokee nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of Congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States.

The act of the State of Georgia, under which the plaintiff in error was prosecuted, is consequently void, and the judgment a nullity. Can this Court revise and reverse it?

If the objection to the system of legislation, lately adopted by the legislature of Georgia, in relation to the Cherokee nation, was confined to its extra-territorial operation, the objection, though complete, so far as respected mere right, would give this Court no power over the subject. But it goes much further. If the view which has been taken be correct, and we think it is, the acts of Georgia are repugnant to the constitution, laws and treaties of the United States.

They interfere forcibly with the relations established between the United States and the Cherokee nation, the regulation of which, according to the settled principles of our constitution, are committed exclusively to the Government of the Union.

They are in direct hostility with treaties, repeated in a succession of years, which mark out the boundary that separates the Cherokee country from Georgia; guaranty to them all the land within their boundary; solemnly pledge

the faith of the United States to restrain their citizens from trespassing on it; and recognise the pre-existing power of the nation to govern itself.

They are in equal hostility with the acts of Congress for regulating this intercourse and giving effect to the treaties.

The forcible seizure and abduction of the plaintiff in error, who was residing in the nation, with its permission, and by authority of the President of the United States, is also a violation of the acts which authorise the Chief Magistrate to exercise this authority.

Will these powerful considerations avail the plaintiff in error? We think they will. He was seized, and forcibly carried away, while under guardianship of treaties guarantying the country in which he resided, and taking it under the protection of the United States. He was seized while performing, under the sanction of the Chief Magistrate of the Union, those duties which the humane policy adopted by Congress had recommended. He was apprehended, tried, and condemned, under color of a law which has been shown to be repugnant to the constitution, laws, and treaties, of the United States. Had a judgment, liable to the same objections, been rendered for property, none would question the jurisdiction of this Court. It cannot be less clear when the judgment affects personal liberty, and inflicts disgraceful punishment, if punishment could disgrace when inflicted on innocence. The plaintiff in error is not less interested in the operation of this unconstitutional law than if it affected his property. He is not less entitled to the protection of the constitution, laws, and treaties, of his country.

It is the opinion of this Court, that the judgment of the Superior Court for the county of Gwinnett, in the State of Georgia, condemning Samuel A. Worcester to hard labor, in the penitentiary of the State of Georgia, for four years, was pronounced by that Court under color of a law which is void, as being repugnant to the constitution, treaties, and laws of the United States, and ought, therefore, to be reversed and annulled.

Judge Baldwin dissented on the ground that the record was not properly returned — that it ought to have been returned by the State Court, and not by the Clerk of that Court.

[The following is a copy of the mandate of the Supreme Court in the Cherokee case:]

SUPREME COURT OF THE UNITED STATES, JANUARY TERM, 1832.

*Samuel A. Worcester, plaintiff in error. vs. The State of Georgia.*

In error to the Superior Court for the County of Gwinnett, in the State of Georgia.

This cause came on to be heard on the transcript of the record from the Superior Court for the county of Gwinnett, in the State of Georgia, and was argued by counsel; on consideration whereof, it is the opinion of this Court, that the act of the legislature of the State of Georgia, upon which the indictment in this case is founded, is contrary to the constitution, treaties and laws of the United States; and that the special plea in bar pleaded by the said Samuel A. Worcester, in manner aforesaid, and relying upon the constitution, treaties, and laws of the United States aforesaid, is a good bar and defence to the said indictment by the said Samuel A. Worcester; and as such ought to have been allowed and admitted by the said Superior Court for the county of Gwinnett, in the State of Georgia, before which the said indictment was pending and tried; and that there was error in the said Superior Court of the State of Georgia, in overruling the plea so pleaded as aforesaid. It is therefore ordered and adjudged, that the judgment rendered in the prem-

ises by the said Superior Court of Georgia, upon the verdict upon the plea of not guilty, afterwards pleaded by the said Samuel A. Worcester is sentenced to hard labor in the penitentiary of the State of Georgia, ought to be reversed and annulled. And this Court, proceeding to render such judgment as the said Superior Court of the State of Georgia should have rendered, it is further ordered and adjudged that the said judgment of the said Superior Court be, and hereby is, reversed and annulled; and that judgment be, and hereby is, awarded that the special plea in bar, so as aforesaid pleaded, is a good and sufficient plea in bar, in law, to the indictment aforesaid, and that all proceedings on the said indictment do forever surcease, and that the said Samuel A. Worcester be, and he hereby is, henceforth dismissed therefrom, and that he go thereof quit without day. And that a special mandate do go from this Court to the said Superior Court, to carry this judgment into execution.

March 5, 1832.

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## BIOGRAPHY.

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JOHN TRUMBULL.

*May 10th, 1831.* — At Detroit, in the 82d year of his age, John Trumbull, author of *McFingal*, and divers satirical poems.

John Trumbull was born in the town of Waterbury, in the State of Connecticut, on the 24th of April, 1750. His father, who bore the same name, was minister of the place, which was then a new settlement. His mother was a daughter of the Rev Samuel Whitman, of Farmington. — By his father's side Mr Trumbull was connected with one of the most honorable and conspicuous families of his native state. John Trumbull, the earliest head of the family of which we have any account, came from England, and settled at Ipswich, Massachusetts, in the year 1645 — twenty-five years after the landing at Plymouth. His son, who also bore the name of John, took up his residence at Suffield, Connecticut, and had three sons, John, Joseph, and Benoni. John was grandfather of the poet.

The subject of our memoir enjoyed the benefits of an excellent early domestic education, under the care of his mother, whose strength of mind and acquirements are said to have been particularly directed to his improvement

during his early years. His memory was remarkable, and he rapidly acquired all the moral and religious poetry, which she undertook to teach him. He soon began to read such books as he found in his father's library, which being chiefly devoted to works connected with the clerical profession, afforded only two, which could have served him in any degree as models for his principal writings in his subsequent life, viz: Dr Watts' *Lyric poems* and the *Spectator*. These he perused with so much interest, that he was soon able to repeat the whole of the former, and all the poetry contained in the latter. About this time he began to attempt poetical composition himself, and his parents, instead of ridiculing or opposing a propensity, which many regard with disapprobation in children, expressed gratification, and encouraged him to persevere. — Trumbull voluntarily commenced the study of the Latin language at the early age of five years. In this attempt the good sense of his mother led her to pursue the opposite course, to that often adopted in similar cases. She did not oppose his design. Learning from the lessons which his father gave to a youth under his care, what the first steps then taken in



teaching that language were, he undertook to commit to memory, Lilly's grammar and the accidence, intending also to translate Corderius. He made rapid progress, as those generally do, who are permitted to pursue a course of study which they prefer, and the success of the first few weeks' experiments was so great, that his father, on discovering that the progress he had made was greater than that of his own pupil, allowed the two to study in company, and presented them for admission into Yale College, at the annual commencement in September, 1757, and had the satisfaction of seeing them both pass an examination with credit. Trumbull, it is traditionally related, was of such small stature at that tender age, that one of the tutors seated him upon a table during the examination, where he exhibited so much capacity and forwardness in his studies, as to surprise the whole assembly. It was not his father's intention to have him regularly enter upon collegiate studies at that period, and he did not join the institution until six years after, in 1763. His time was devoted to study, and he became so well acquainted with the Greek and Latin authors, that he found much time to devote to studies of a different nature, and he now applied himself to Algebra, Geometry, and astronomical calculations, as he had done during the interval to such English belles-lettres works as fell in his way. The last year of his Collegiate course he chiefly devoted to English literature, which was greatly neglected at that time in the institution.

He received the degree of Bachelor of Arts in 1767, but did not withdraw from the scene of

his studies, nor engage in those appropriate to any particular profession. In this he deviated essentially from the course pursued at the American Colleges, as well at that period as at the present, and thus enjoyed the rare advantage of devoting himself almost exclusively to his favorite branches of literature and science, for several succeeding years. He applied himself arduously to the study of the Greek and Latin classics, and especially to the poets and orators,—attending to their style, and endeavoring to acquire that of the best authors in his own language. It was after Trumbull had received his degree of Bachelor, and while pursuing his studies at New Haven, that he formed an acquaintance with Timothy Dwight. When their intimacy began, the latter was in the junior class in Yale College, and similarity of views upon literary subjects soon drew them into an acquaintance which laid the foundation of a warm, uninterrupted and lasting friendship. Trumbull was much pleased with the translations of two of Horace's favorite odes, in which he observed traces of the genius, which his young friend subsequently displayed. As they both appreciated in a proper manner the importance of cultivating a correct taste in English literature, among other branches of learning, they could not but condemn the principles, on which the course of study in the institution was founded. In this it appears they for some time stood alone, and it was not until after the appearance of several sarcastic attacks on the prevailing ideas, from the pen of Trumbull, that they began to find even a few converts to their opinions. After a time however they re-

ceived the active co-operation of several young men of talents, who entered heartily into their views and lent them their influence. In the year 1769 they began to publish literary essays in a Boston newspaper, on the plan of those of the *Spectator*, but after a few months, terminated them, and soon after began to write similar pieces for the New Haven newspapers. The latter extended to above forty numbers.

Trumbull was appointed a tutor in Yale College in the year 1771, when, in consequence of resignations, only one of the former tutors retained the place. This was Mr Howe, whose taste and opinions concerning the importance of English literature well accorded with his own. To their number was added Mr Dwight, afterwards President of the Institution : and their united influence was directed to the improvement of style and elocution.

The *Progress of Dulness*, a poem of Mr Trumbull's, designed to ridicule the absurdities of the then prevailing system of education, was published in 1772. Mr Dwight at the same time produced one, entitled *America* : and having completed the first five books of the *Conquest of Canaan*, at the suggestion of his friends added other parts, but did not publish it, until some years afterwards. Among the particular friends and coadjutors of these three gentlemen, were the late David Humphries and the late Joel Barlow.

The *Progress of Dulness* was successful as a satire, although its reputation was eclipsed by his subsequent poems. Nor was the *Progress of Dulness* the only satire of his college life. His celebrated '*Epithalamium*,' on the

marriage of one of the tutors to a lady of fortune, with various other pieces, was written during this period ; as likewise was the beautiful elegy on the death of Mr Buckingham St John, one of the author's earliest and most intimate friends, who likewise was tutor in the college at the time of his decease. The *Epithalamium* was a playful satire, at first circulated anonymously among a very few friends, and never published among the author's acknowledged works. But the author could not be mistaken ; and the shafts of his wit were so pointed, that they left a wound which fastened long in the bosom of the bridegroom ; who, though his life, like that of the author's, was long protracted, and although both the author and himself long sat upon the bench of the superior court together, we believe he never quite forgave him for this early indulgence of his keen satirical powers. The other piece just mentioned was altogether a different description of poetry. The elegy of which we are speaking, and several other pieces, as '*The Destruction of Babylon*,' bear ample testimony that had it been the author's desire to cultivate his richer poetical gifts, he might have assumed a higher station among the minstrels of the age, than it is in the power of any mere satirist to attain.

Mr Trumbull was admitted to the practice of Law in Connecticut, in 1773, having attended to the necessary studies during his tutorship. Instead of pursuing the profession as an attorney, however, he determined to continue his studies, and entered the office of John Adams of Boston, and had his residence at the house of Thomas Cushing, then Speak-

er of the House of Representatives of Massachusetts, and subsequently Governor of that State. In so critical a period and with such associates, his interest naturally became strongly excited in the political state of the country, and he acquired a knowledge with the prominent characters of the day, which enabled him the better to deal his satiric blows in his celebrated poem of *McFingal*.

He became acquainted with the views and feelings of many intelligent and influential men about the Courts of London and Paris; and forming the same opinions as those around him, he endeavored by anonymous publications to second their exertions in encouraging a spirit of resistance to the oppression of the British Ministry. In the month of November, 1774, Mr Trumbull having returned to New Haven, entered upon the practice of his profession. Before he left Boston, however, his poem entitled an *Elegy on the Times*, was published, without the author's name.

In the year 1775, among the means resorted to, to keep up the hopes and courage of persons likely to despond amidst the losses, disappointments, and dangers, which befel the country, it was proposed to Mr Trumbull to write a satirical poem: and being prevailed upon by some of his friends, members of Congress, at Philadelphia, he composed the first Canto of *McFingal*, which was soon transmitted to that city and there published.

This poem was the most popular of his works for the brilliancy of its wit, and the pungency of its satire, rather than for the superior excellence of its poetry, in which respect it is rivalled by other of his own productions.

The object of the tory party was to daunt the people by representations of the mighty power of Britain, and the dreadful effects which would follow to this country from a separation — the efforts of wise patriots were directed to counteract this impression — more injurious to our cause than an armed host of enemies; and few men so materially assisted in this as Trumbull, by his publication of *McFingal*, which was a more valuable present to the revolution, than would have been a regiment of cavalry fully armed and mounted.

Mr Trumbull was married in November, 1776, to Miss Sarah Hubbard, daughter of Col. Leveret Hubbard of New-Haven. In May, 1777, at the time when that place was exposed to invasion, he removed to his native town, where he spent the four following years, devoting himself to his business and his favorite classical and belles-lettres studies. His health, in consequence of the labor and fatigue he underwent during this period, suffered severely: and a principal cause of its decline, was his exertions and exposure in travelling from Court to Court in the severe winter of 1780. — His disease was of a nervous nature, and partly with the hope that Hartford might prove a more healthful residence, partly because it offered better encouragement in his profession and contained more society congenial to his taste, he removed to that place in 1781.

Here he soon formed a literary club which held weekly meetings, for the discussion of questions previously selected, on political, philosophical or legal subjects. This was the year which termin-



ated the revolutionary war; and those who had taken an active part in the important struggle in different ways were naturally disposed to continue their exertions with their pens, when the restoration of peace had put the use of other weapons out of the question.

The confusion, that then prevailed throughout the country, demanded great exertion on the side of the cool and clear sighted, to allay the feelings of discontent. Trumbull was active and unceasing in his efforts, and his powers of ridicule were skillfully employed in a series of essays, under the signature of *Lycurgus*.

There was another series of poetic essays afterwards published by Trumbull, in connexion with Messrs Humphreys, Barlow, and Hopkins, which had an extended influence over public opinion.

Trumbull was the oldest of the club, and it is believed that it was during the active operations of this society, that he and Barlow lived several years under the same roof, their families occupying different parts of the mansion.

In 1789, he was appointed State's Attorney for Hartford County, and the year following distinguished himself in the State Legislature.

Impaired health soon obliged him to resign his public employments until 1801, when he was appointed Judge of the Superior Court of the State of Connecticut, and not till then did he drop his pen.

The character of Judge Trumbull in private life was as truly excellent, as his literary career was brilliant, and his public life able. His spirits were as anima-

ted and buoyant, as those of a young man of thirty. He was the life of the social circle, which was never wearied with his edifying and brilliant conversation. His familiarity with the ancient and modern classics was surprising. High above all others of English Bards, in his estimation, 'daring Milton sat sublime,' to borrow the words of Pope: but of Pope himself, the American Bard did not entertain so exalted an opinion, and rather inclined to the views of Dr Bowles, as given in the controversy with Lord Byron, upon the writings of the Bard of Twickenham.

In 1825, Judge Trumbull removed to Detroit, to spend his remaining years with a favorite daughter. In passing through New-York, he was honored with a public dinner, given to him by his admirers in that city.

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#### HON. OLIVER PEABODY.

*August 3, 1831.*—In Exeter, N. H. Oliver Peabody, aged 79. He was a native of Andover, Massachusetts, and was born August 22, 1752. He graduated at Harvard College in 1773, being in the first class after the aristocratical arrangement of the graduates according to the rank and station of their parents, which had prevailed from the foundation of that institution, was abolished. He studied the profession of the law, and settled in practice in Exeter, before the year 1778. In that town he was soon brought into public life, being appointed Judge of Probate for the county of Rockingham, 7th July, 1790, which office he held until June, 1793. In 1793 and 1794, he was elected senator of the second district, under the revised consti-

tution of the State, and in the latter year, was chosen President of the Senate. On the 17th June, 1794, he was elected State Treasurer, upon which he resigned his office of Senator. The office of Treasurer he sustained the same number of years that his friend and townsman, John Taylor Gilman, sustained the office of governor. Both came into office together, and both retired at the same time. In December, 1795, he was appointed Justice of the Peace and Quorum through the State, and at the time of his death was the oldest magistrate of that rank in New Hampshire. He was appointed Sheriff of the county of Rockingham, 2d May, 1805, and filled that office for five years. In 1813, he was again elected Senator in the Legislature, and the same year, when a new arrangement of the judicial courts was made, he was appointed associate justice of the Eastern Circuit of the Court of Common Pleas, and remained in office until 1816. He was three times, viz. 1796, 1800 and 1804, chosen one of the Electors of President and Vice President of the United States. In all these stations, Judge Peabody acquitted himself with dignity, integrity and impartiality.

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COL. RICHARD VARICK.

*September, 1831.* — At Jersey City, opposite N. York, Richard Varick, aged 76. Col. Varick was born at Hackensack, New-Jersey, and received his college education at King's, now Columbia College, in the city of New-York, at which he took his degree before the commencement of the revolutionary war. Upon the breaking out of that war, he en-

tered into the service of the country, as military secretary to General Schuyler, who then commanded the Northern Army; he was subsequently appointed Deputy Commissary General, with the rank of Lieutenant Colonel. He remained with that army until after the capture of Burgoyne, in October, 1777. Afterwards he was stationed at West Point, and acted as Inspector General, until the discovery of Arnold's meditated treason, and the desertion of that officer. Having been in Arnold's family as aid-de-camp, a court of inquiry was ordered which acquitted him of all participation in Arnold's treachery. He then became a member of Washington's military family, and acted as recording Secretary, until nearly the close of the war. After the evacuation of the city by the British troops on the 25th November, 1783, and the restoration of the civil government of the State, Col. Varick was appointed Recorder of the city of New-York, and subsequently Mayor, and held the latter office for many years. He was elected President of the New York State Society of the Cincinnati, 4th July, 1806, and held the office until his death—having been re-elected annually.

For many years he was out of all public employment, both in civil and political life; and devoted much of his time to the promotion, by all the means in his power, of the various objects of moral and religious improvement, for which the period has been greatly distinguished.

He was one of the founders of that great national institution—the American Bible Society; was appointed its first treasurer; afterwards, a Vice President; and, upon the resignation of the Hon.

John Jay, he was unanimously elected its President. He always maintained, through life, a distinguished character for the strictest integrity in all his intercourse with men, and for unaffected piety among Christians. He left a widow, with whom he lived in the enjoyment of domestic happiness for nearly half a century; but had no children.

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GEN. WILLIAM BARTON.

*October 22, 1831.* — In Providence, R. Island, William Barton, aged 84. General Barton was a native of Rhode Island, and early in the struggle for independence, he embarked in the cause with an enthusiastic ardor highly honorable to his character as a patriot; and during the long period of his service as an officer, he exhibited the valuable qualities of prudence, decision and valor. The capture of General Prescott, at his quarters on Rhode Island, which was planned and executed by General Barton (then a Colonel in the American army) aided by a small detachment of trusty men, was one of the most hazardous achievements of those times. The services of General Barton were highly appreciated and duly honored by Congress in presenting him a sword, and also by a grant of land in Vermont, in the transfer of which, however, he unfortunately became entangled in the toils of the law, was subjected to numerous and heavy expenses, which eventuated in his imprisonment there, most unjustly, as was thought by himself and friends. He was deprived of his liberty for many years, away from his family, with scarce a hope for enlargement, until Lafayette visited

this country, who learning the situation of his brave fellow soldier, paid the debt and opened the prison doors.

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STEPHEN GIRARD.

*December 26th, 1831.* — In Philadelphia, Penn. Stephen Girard, aged 84. He was born at Bordeaux, in 1746, which place he left at about twelve years of age, in the capacity of cabin boy, in a vessel bound for the West Indies. He arrived in New-York about the year 1775, and settled in Philadelphia in 1779. He was then a very poor man, dealing in old iron and rigging, in the city, and trading on the Delaware as a pedlar, supplying the inhabitants with groceries, ready made clothing, &c. The foundation of his fortune is to be found in his great industry and frugality, but the particular transaction by which he first realized great wealth, and was enabled to engage in mercantile operations, cannot now be known. He became distinguished for his active philanthropic exertions during the ravages of the yellow fever, which nearly depopulated the city, in 1793. In 1812, he established his private bank, into which he put about two millions of dollars. Since that time his wealth has increased with unheard-of expedition. During the last war he took the government loan of five millions, at a period of general despondency, and when the credit of the government was almost entirely exhausted. At the time of his death his property was estimated to be worth ten millions of dollars, and he was the most wealthy man in the new world. He was buried with public honors. By his will he distrib.



uted his immense wealth in the most liberal manner. He left to the Corporation of Pennsylvania Hospital, \$30,000. To the Pennsylvania Institution for the Deaf and Dumb, \$20,000. To the Orphan Asylum of Philadelphia, \$10,000. To the city of Philadelphia, to be invested, and the proceeds to be expended during the summer in the purchase of fuel, which is to be distributed among poor house-keepers during the month of January forever, \$10,000. To the Grand Lodge of Pennsylvania, \$20,000. To the Township Passyunk, for the establishment of a School for poor white children, \$6,000. To certain relatives who are named, his real estate in the city of Bordeaux, and \$140,000 in money. To each Sea-Captain in his employ, \$1500. To every person bound to him as an apprentice or servant, \$500, at the end of his service. In bequests and annuities, \$49,000. A portion of real estate, consisting of two hundred and eight thousand arpens of land, situated near Washita, Louisiana, after twenty years if the present occupant, Judge Henry Bree, shall live so long, otherwise immediately after his death, — to the city of New-Orleans. To the city of New-Orleans one third of the residue of the same estate, and to the city of Philadelphia the other two thirds. And all the residue and remainder of his real and personal estate is given to the city of Philadelphia, in trust for certain purposes specified. Among these is the sum of \$2,000,000, for the erection of a permanent college in Penn Township, for the accommodation of at least three hundred poor white male Orphans, above the age of six years. He prescribes the

shape and dimensions of this building, the materials of which it shall be composed, and the form in which each part shall be constructed. He evidently intended to erect a building which should defy the ravages of the elements, and, as far as possible, those of time. Perhaps his knowledge of mankind instructed him that the greatest benefits are forgotten unless the tangible monuments are constantly before men's eyes. The number of students is to be increased according to the increase of the income. The scholars are to be considered children of the city of Philadelphia, their relations relinquishing all interference with them. If the number of applications for admission shall exceed its means of accommodating them, priority is to be given to orphans born in Philadelphia, next, to those of Pennsylvania, then to those born in the city of New York, that being the first port in the country in which Mr Girard arrived, and lastly, to those born in New Orleans, that being the first port in which he traded as a seaman. Proper regard is to be paid to the apparel, health and lodging of the scholars, and they are to be 'taught facts and things, rather than words or signs,' and instructed in all the various branches of a sound education, according to their various capacities; and between the ages of fourteen and eighteen, they are to be bound out, under the direction of the city authorities, to suitable occupations. Should the income of any year exceed the demands upon it, it is to be invested immediately, and added to the capital; no part of which is ever to be disposed of, or pledged to meet the wants of the institution. It is also en-

joined 'that no ecclesiastic, missionary, or minister of any sect whatsoever, shall ever hold or exercise any station or duty whatever in said college; nor shall any such person ever be admitted for any purpose, or as a visiter, within the premises appropriated to the purposes of the said college.' This restriction is said to have been made from no want of respect for the clergy, but to keep the minds of the scholars free from the excitement of the clashing doctrines of sectarians. Out of the residue, \$500,000 is appropriated to certain local improvements. The State is to have \$300,000 for purposes of Internal Improvement by canal navigation. The Corporation of the City of Philadelphia is required to publish annually in the month of January, an account of the state of all the bequests and devises, and the condition of the College, which he designates as his 'primary object.' A similar annual report is also to be made to the Legislature of the State. If the city violates any of the conditions upon which it becomes residuary legatee, the Commonwealth of Pennsylvania receives the greater part for purposes of internal navigation, and, the Commonwealth failing in the conditions, the remainder is bequeathed to the United States 'for the purpose of internal navigation, and no other.'

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COL. ROBERT TROUP.

*January, 1832.* — At N. York, Col. Robert Troup, in the 75th year of his age. Col. T. was born in Morris county, N. Jersey, August 19, 1756, being the son of Robert Troup and Eleanor Bissett; and at the commence-

ment of the American Revolution he was engaged in the study of the law in the office of John Jay, afterwards Chief Justice of the United States. He quitted his studies and solicited and obtained the appointment of Lieutenant; and with that rank joined the continental army, then stationed upon Long Island, under the command of Gen. Sullivan, early in the year 1776. He was shortly afterwards appointed aid-de-camp to Brig. General Woodhull, and was with the latter at the encampment near Brooklyn, when the Americans were attacked and defeated, on the 27th August, by the British forces under the command of Generals Sir Henry Clinton, Percy, and Cornwallis. In that action several generals and Col. Troup were made prisoners. Col. Troup was confined for some time in the Jersey Prison Ship at the Walabout, and subsequently transferred to the Provost prison in N. York, where he remained until the spring of 1777, when he was exchanged, and joined the army in New-Jersey. Gen. Gates having been, in the same spring, appointed by Congress to the command of the northern army, selected and appointed Col. Troup one of his aids-de-camp, and he joined that army, in that capacity, at Saratoga in August of the same year — was present at the action at Stillwater, and at the surrender of the British army, commanded by Gen. Burgoyne, on the 17th October.

In February 1778, Col. Troup was appointed by Congress, Secretary of the Board of War, appointed to sit at the seat of government, of which Gen. Gates was President, and continued to act as such Secretary until the

board was dissolved in the following year, after which Col. Troup went to New-Jersey and completed his law studies with the late Judge Patterson, of the Supreme Court. Some years after the peace, Col. Troup was appointed Judge of the District Court of the United States for the District of New-York, held that office for several years, and then retired to private life.

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COL. ROBERT CAMPBELL.

*January, 1832.* — Near Knoxville, Ten. Col. Robert Campbell, aged 77. Col. Campbell was one of the most active leaders of the whig party in North Carolina, during the revolution, and was always distinguished for enterprising courage. In a battle with the Cherokees, in 1775, when only nineteen years of age, he was, at one time, so far in advance of his comrades, as to be mistaken for an Indian, and accordingly fired at. Here two bold and reckless warriors, almost simultaneously, rushed upon him; the first having shot at him, was in the act of elevating the tomahawk, when he received a mortal wound from another direction. The second also discharged his piece without effect, although they were not more than twenty paces apart, and while Col. C. was in the act of taking aim, the savage hero folded his arms, and met his fate with a dignity and firmness, worthy of the brightest days of chivalry. At this critical period, almost within the enemy's line, discovering that they were about to surround the white men, he gave the alarm in time to counteract it; and throughout the whole engagement, his youth and daring attracted the attention of his fellow

soldiers. He was one of the volunteers, under the command of Colonel Christie, who invaded the Cherokee country in October, 1776. In 1780, he distinguished himself on the memorable 7th of October, at the battle of King's Mountain. In December, 1780, he was in a third expedition against the Cherokees; and was despatched, at his own request, with sixty men, to destroy Chilhowee. Having accomplished their object, they immediately commenced a retrograde movement; and after proceeding several miles, came to a narrow defile, three hundred yards in extent, and guarded by a line of two or three hundred Indians. Without a pause, and with that cool and deliberate spirit that had shone so brightly at King's Mountain, Colonel Campbell, at the head of his detachment, ordered them to sit erect, and charge through in single file; and thus, effecting this perilous passage in the midst of a volley of fire, reached the encampment at Hiwassee, without losing a man. He served the county of Washington, in Virginia, for nearly forty years, as a magistrate; a respectable and highly responsible office. In 1825, he emigrated to the vicinity of Knoxville.

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REV. GEORGE CRABBE.

*February 8th, 1832.* At Trowbridge, Wilts, England, aged 77, the Rev. George Crabbe.

Mr Crabbe was born in 1754, at Aldborough, in Suffolk, where his father and grandfather were officers of the customs. At an early age he was placed by his father in a school, probably with no other view than that of acquiring a knowledge of arithmetic; but



when his prospects brightened, Mr Crabbe removed his son to a school where the classics were taught, with a design of giving him that moderate portion of the learned languages, which might qualify him for the profession of physic in the capacity of surgeon and apothecary.

Mr Crabbe, the father, was a mathematician, and in the course of his studies he purchased the *Philosophical Magazine*. Having much respect for the scientific part of the publication, and not much for the poetical, he separated the different parts, and collecting the portions on mathematics and natural philosophy in a decent binding, he sewed the poetry in paper and left it to the chance perusal of his children. The eye of his son was attracted by the verses, and he committed a vast number of them to memory. These it became afterwards his amusement, when at school, to write out ; and when his memory failed, he supplied the defect by his invention, and thus at a very early period of his life became versifier. About the end of the year 1778, he finally resolved to abandon his profession. With the very best verses he could write, and with very little more, he quitted the place of his birth, and repaired to the metropolis, and soon after offered a poem for publication, but could not find a purchaser. He next hazarded the publication of an anonymous performance : 'The Candidate, a poetical epistle to the authors of the monthly review.' In this little publication, however, he was unfortunate ; he had been informed that some little profit would accrue from the sale, when the publisher failed.

Mr Crabbe now looked round

for the aid of some celebrated individual, whose influence might introduce him to the public. — 'Knowing many by reputation, none personally, he fixed, impelled by some propitious influence, in some happy moment, upon Edmund Burke.' It is evident from this passage, that the aspiring but distressed youth made this application without any introduction ; it was however benevolently met, and Mr Burke took him by the hand. He submitted to his distinguished critic a large quantity of miscellaneous composition ; much of which he was taught to appreciate at a reduced value. — Among these compositions were 'The Library' and 'The Village,' which were selected by Mr Burke, and with the benefit of his judgment and exhilarating predictions, the poet was desired to sit in judgment on his best efforts, without mercy rejecting the rest. When this had been attempted with considerable patience and perseverance, Mr Burke himself took *The Library* to Dodsley, the bookseller in Pall Mall, and gave many lines the advantage of his own reading and comments. Mr Dodsley listened with all the respect due to the reader of the verses, but would not undertake the publication at his own risk. He however promised, that Mr Crabbe's poem should have all the benefit he could give it ; and this promise he most liberally fulfilled, for he transferred to the author all his profits arising from the sale. The success of 'The Library' gave some reputation to the writer, and encouraged him to publish his second poem 'The Village,' which was corrected, and a considerable portion of it written in the house of Mr Burke. Mr

Crabbe was invited to Beacons-ville, the seat of his protector and there placed in a convenient apartment, supplied with books, for his information and amusement, and made a member of the family. Having explained all his difficulties to Mr Burke, and been assisted by him in his preparations for holy orders, Mr Crabbe was ordained a Deacon in 1781, and priest in the following year. He immediately after became Curate to the Rev. James Bennet at Aldborough. The efforts of his friends did not rest here; through the personal influence of Mr Burke he was introduced to the Duke of Rutland, who appointed him his domestic chaplain.

In 1788, Lord Thurlow, at the recommendation of Mr Burke, presented Mr Crabbe to the rectory of Frome St Quenton, in Dorsetshire, which he held for about six years. At the end of that period Lord Thurlow presented him with the rectories of Muston in Leicestershire, and West Allington in Lincolnshire.

'The Village' was published in 1783. In 1785 Mr Crabbe produced 'The Newspaper,' a poem which was well received by the public; but from that time he committed nothing more to the press until the year 1807, when he published his 'Parish Register.' The 'Borough,' a poem in twentyfour letters, was published in 1810; and 'Tales in Verse' appeared in 1812.

After an interval of more than twenty years, Mr Crabbe returned to his parsonage at Muston in Leicestershire. In 1813, the present Duke of Rutland presented him to the rectory of Trowbridge, and with it to the smaller bene-

fice of Croxton Kevryel, in Leicestershire.

Mr Crabbe's last published volume was 'Tales of the Hall,' which appeared in 1819.

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#### J. W. VON GOETHÉ.

*March 22d, 1833.* — At Weimar, Germany, John Wolfgang Von Goethé, the patriarch of German Literature, aged 82.

Goethé was born at Frankfort, Aug. 28, 1749, the son of a gentleman in easy circumstances and of cultivated taste. At the age of 15 he was sent to the university of Leipsic, where he passed four years. He then went to Alsatia and subsequently to Frankfort; but in 1775 he settled at Weimar, upon the invitation of the Grand Duke Charles Augustus, whom he had met at Frankfort, and there he continued to reside for the residue of his brilliant career, under the special patronage of his adopted sovereign, whose prime minister he was for many years. Goethé's first literary attempts were made in the annuals and literary journals. His 'Goetz with the iron hand' appeared in 1773, and the 'Sorrows of Werter' in the following year. This work, which was founded on the suicide of Jerusalem, the son of a celebrated theologian, who fell a sacrifice to his passion for the wife of a friend, met with wonderful success. It was translated into all the living languages, was universally circulated, and illustrating feelings, which all supposed themselves capable of entertaining, turned the heads of half the milliners and idle young men in Christendom. Its false and morbid sentiments, and its immoral reasoning became

fashionable, and a host of imitators bid fair to flood the press with their sickly sentimentality, until Goethé himself, by his wit and irony, checked the insanity, that he had called into action. His other most celebrated productions were his *Faust*, *Wilhelm Meister's apprenticeship*, and *Elective affinities*. The former, which is generally supposed to be founded on the vulgar tradition of *Faustus*, is without a parallel. It is an allegorical romance, or a tale of witchcraft, in scenes and dialogues. In this work, Goethé has displayed all the power and versatility of his talent, and in spite of his mysticism, he proves himself to be a poet of the highest order. His *Wilhelm Meister* is strongly marked by brilliant wit, profound knowledge and genius, combined with the same tendency to mysticism which is found in his other works. It produced a powerful impression in Germany, as the philosophical and religious opinions therein expressed were supposed to be hostile to Protestantism. But Goethé was a Protestant after his own method, and notwithstanding his powerful mind rejected the peculiar dogmas of the Catholic faith, he has evinced in that work a predilection for its pomp and ceremonies. As a poet, Goethé excited the unqualified admiration of his countrymen. The beauty of language, which characterises his writings, has a peculiar charm, and his style is happily adapted to every subject simple as well as sublime. He retained to an advanced age all the powers of his comprehensive mind, which he delighted to engage in the most abstruse problems of science. Comparative anatomy, geology, botany, the theory of colors, the drama, crit-

icism, in short, every department of literature and science were the objects of his attention. His genius embraced everything, and no one attempted to dispute his supremacy. His empire over German literature was acquiesced in by every candidate for literary fame, and he himself regarded his rank in society, and his varied powers of mind, merely as means, by which he might promote the improvement of science, literature and art in Germany. During his long career he was constantly engaged in stimulating talent of every kind, and in publishing works, which exercised a powerful influence over public opinion. By this course he added to the literary reputation of the court, of which he was so distinguished an ornament. Weimar was, before his arrival, celebrated as the residence of Wieland, Bode, Musaeus, and Bertuch, and attracted by the character of the sovereign and court, it soon became the Athens of Germany. Schiller, Herder, the Schlegels, Kuebel, Emsiedel, Seckendorff, Boethiger and Madame Wollzogen and Amelia Imhoff, all contributed to render it illustrious. Its gardens and public walks became to the Germans what the Portico and Academic Groves were to the Greeks; although the mystic dreams of Goethé very inadequately supplied the lofty and sublime visions of Plato. Still their influence imparted a literary character to the court and to society; and of the assemblages of the distinguished Germans that resorted to Weimar, Goethé was the undisputed head. Less occupied with his own fame, than with an ardent desire to promote the glory of his country, he devoted his life to



promote the advancement of German literature.

In 1786 he made the tour of Italy, and passed three years in that classic land. Shortly after his return in 1792 he accompanied his sovereign to the army of the Duke of Brunswick and witnessed the defeat of the veterans of the Prussian army by the raw levies of France, then burning with the enthusiasm of newly acquired freedom. In 1808 he received the cross of the legion of honor from Napoleon, and the same year the Emperor of Russia conferred on him the order of St Alexander Newsky. Few men of the rank of Goethé have passed through life with so much happiness, and exposed to so few reverses of fortune. Possessing the confidence of his sovereign, the love of his fellow countrymen, he was the admiration of all the literary men of Europe, and materially contributed to elevate the German name. He expired without any apparent suffering, and was buried with all the honors that could be bestowed upon the remains of mortality. At his funeral was sung the following hymn, (written by himself in allusion to Schiller) but more appropriately applied to himself.

Rest thee soft in heavenly slumbers  
Near thy friend and Prince reclined,  
For thy life was nobly spent,  
In nurturing thine age's mind.  
Till space and time have passed away,  
Thy name shall live in mortal breast;  
Then rest thee on thy tranquil couch  
By earth beloved, in Heaven thrice  
blest.

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#### M. CHAMPOLLION.

*May 15th, 1832.* — M. Champollion, one of the most indefatigable and enlightened scholars of

the age, died at Paris in his 42d year, after a long and severe illness, the effect probably of his travels in Egypt, combined with his incessant application to the great object of his literary life — the elucidation of the historical records and monuments of that country. His loss to the lovers of Egyptian literature is almost irreparable.

He survived but a short period his great rival in the discovery of the real meaning of those mystic symbols, which had so long attracted the curiosity and repelled the attempts of the learned, and which by common consent, had been pronounced a hopeless inquiry. The labors of Dr Young and M. Champollion penetrated through the darkness of ages, and afforded a clue to the intricacies of the long labyrinth, which had perplexed and bewildered others. If the lives of those eminent men had been extended but a few years, when the jealousy for priority of claim was happily at an end, and mutual good will, and a desire to promote each others designs had sprung up in its place, the learned world might have looked forward to results of no ordinary nature. The brilliant light of their united exertions would have dispelled all the obscurity which envelopes the chronology of history, and puzzles and confounds the student. Most of the letters which contain the particulars of Champollion's visit to Egypt have already met the public eye, and the brief summary which they give of his labors and discoveries in that land of wonders, did but increase the anxiety for the appearance of that magnificent work, which the author had announced. With what

delight and interest must the companions of his travels have entered into the palaces of the Theban Pharaohs, and listened to the mighty magician who could unfold to them 'the hand writing on the wall,' and could point out to them, among the sculptured reliefs, the triumphs of Shishak over thirty princes, and in that number the name and title of the King of Judah, thus confirming in a remarkable manner, the fact related in the first Book of Kings, when Jerusalem was plundered by the Egyptian conqueror. In another and most interesting letter, Champollion has described the stupendous palace of Rameses Meiammoun, or friend of Ammon, the grandfather of Sesostris. The granite sarcophagus of this monarch was removed to Paris by the interest of the French consul: but its lid of red granite had been previously removed, and presented to the Fitzwilliam Museum by Belzoni. The reign of Rameses Meiammoun carries us back sixteen centuries before the Christian era. To Champollion's sagacity and communication we are indebted for the explanation of the mystic legend which surrounds the lid of the sarcophagus, and which proclaims the titles and name of the hero.

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#### CASIMIR PÉRIER.

Casimir Périer, born at Grenoble the 12th of October, 1777, was the son of Claude Périer, a merchant and proprietor of the Château of Vizille, near Grenoble, in which the States General of Dauphiny assembled in 1789, for the last time. He studied in the college of the Oratory, at Lyons, but embraced the career of arms at a very early age. —

After having served during the campaigns in Italy of 1799 and 1800, in the engineer corps, he quitted the army and devoted himself to commerce, in compliance with the last wishes of his father. In 1802, Casimir Périer established at Paris in conjunction with his brother, Scipion Périer, a banking house, in the management of which his active and sagacious mind acquired information, which he subsequently applied so usefully to the elucidation of questions of finance as a public man. He carried on, in connexion with his banking business, various establishments of manufacture, at Paris, Chaillot, Passy, and elsewhere. In 1816, he published an essay on the subject of foreign loans, which attracted much attention; and in 1817, he was elected member of the Chamber of Deputies for the Department of the Seine. From that time until the time of his death he continued in the Chamber.

Previous to the Revolution of July, 1830, Casimir Périer was a zealous partisan on the side of the Opposition. His particular familiarity with subjects of finance made him especially redoubtable to the several ministers of that period on all revenue questions; but he proved an able and efficient debater upon other topics of public interest, and this most of all under the long administration of M. de Villèle.

Owing to such circumstances, M. Périer stood prominent among those individuals, to whom the French looked for direction at the epoch of the Three Days of July. On Monday, July 26th, the day of the publication of the ordinances which led to the Revolution, several of the liberal dep-

uties met, first at the house of Alexandre de Laborde, and the next day at the house of Casimir Périer, to consult upon the measures proper for them to adopt; and on Wednesday, July 28th, Périer was one of a committee with General Gérard, the Comte de Lobau, and MM. Lafitte and Mauguin, appointed to go to the Tuileries, and confer with Marshal Marmont, in order, if possible, to prevent the further effusion of blood, and procure the dismissal of the Polignac ministry. These facts prove that M. Périer could not have been backward at this crisis, although, subsequently to the Revolution, the more violent of the victors of the Three Days were disposed to call his patriotism in question. And when the Chamber of Deputies met, Casimir Périer was elected to the eminent office of President of that body, being also made a member of the cabinet of Louis Philippe, but without a ministerial port folio.

When the government of Louis Philippe was at length fully organized, they, who had thus far co-operated together, if not cordially, still at any rate zealously, now divided upon various topics of domestic and foreign policy, and contended with quite as much animosity as the royalist and liberal parties had done prior to the Three Days. One side advocated measures of a republican tendency at home, and of fraternization with the liberal Belgians, Poles, Italians, and Spaniards abroad, even at the hazard of war. The other side upheld the existing institutions guaranteed by the Charter; and while professing, and probably feeling, much good will towards the oppressed of other countries, yet anxiously main-

tained the doctrine of non-intervention, although at some sacrifice of the national point of honor. Of this latter party, Casimir Périer became the responsible head, being appointed, on the 13th March, 1831, President of the Council and Minister of the Interior.

M. Périer continued in office, except with a brief intermission in July 1831, until the time of his death, which happened May 16th, 1832, in consequence of an attack of the cholera morbus. His biography during this period, is the history of France, in relating which from year to year in the Register, we have fully explained his public character, and to which we refer the reader, for additional information upon this point.

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#### NATHANIEL ROCHESTER.

*May 17th, 1832.*— In Rochester, N. Y. Col. Nathaniel Rochester, aged 79. His family was of English descent, and, for three generations, resided in Westmoreland county, Vir. where he was born, Feb. 21, 1752. The opportunities for a liberal education were, at that time, extremely limited. The varied and accurate information for which Mr Rochester was distinguished in private intercourse, as well as in the public trusts he so honorably filled, was the fruit of the application of a vigorous and clear mind, in the intervals of leisure afforded by a life of no ordinary activity and vicissitude. At the age of twenty he commenced his mercantile career, in company with Col. John Hamilton, who afterwards held the Consulate for the British Government, in the middle States. The struggle of the



Colonies with Great Britain was then at hand.

At the age of twentyeight, he was called to the responsible and hazardous station of one of the Committee of Safety, for Orange county, N. C. It was the business of this committee to promote the revolutionary spirit among the people -- to procure a supply of arms and ammunition -- and to make collections for the people of Boston, the harbor of which was blocked up by a British fleet, and to prevent the sale and consumption of East India Teas. In August, 1775, Col. Rochester's legislative career commenced, as a member of the Provincial Convention of North-Carolina. From this convention his first commission as Major of militia emanated; and the rapid progress of hostilities did not leave him long without an opportunity of signalizing himself. The immediate call upon his services, resulted from the secret mission of the British General, Alexander McDonald, to the highland Scotch in Cumberland County -- refugees from their native land, for adherence to the disastrous fortunes of the Pretender. The schemes of this officer were executed so carefully, that before his intentions were known, one thousand men had been raised and were marching to Wilmington. When intelligence of this reached Hillsborough, Colonel Thackson immediately went in pursuit to Fayetteville, (then called Cross Creek). The enemy had left before they arrived, and Major Rochester was despatched by his commanding officer to overtake them by forced marches, before General McDonald should gain the transports, waiting at the mouth of Cape Fear River,

to convey them to New York. At daybreak, after a march of twenty miles, the General and five hundred of his Scotch recruits, were met on the retreat, having been turned at Moore's Creek Bridge by Colonel Caswell, afterwards the first Governor of the State. Major Rochester captured the whole -- but from scarcity of provisions, was compelled to release all but about *fifty* officers -- binding the discharged not to serve again during the war against the colonies. On his return to head-quarters, he found that Colonel Martin of the Salisbury minute-men, had arrived with 2000 men, and to him the credit of the capture is by mistake ascribed, by Chief Justice Marshall, in his Life of Washington.

In 1776 Major Rochester was again a member of the convention at Halifax, and by that body was promoted to the rank and pay of a colonel, for the North Carolina Line, and appointed commissary general of military stores and clothing. That Convention organized the state government, by the appointment of a governor, and other officers, and ordered an election of members of a state legislature. In the exercise of his office as commissary, Colonel Rochester was exposed to severe fatigue, and being compelled to travel with great rapidity between all the sea-port towns in Carolina and Virginia -- until his health gave way under its pressure of duty -- by the advice of his medical friends, he reluctantly submitted to a resignation of his office. Before he reached home his election was secured as member of the assembly. After the war, and the resignation of the office of clerk of the court, (which had

in the mean time been given to him,) Colonel Rochester embarked again in mercantile pursuits, first at Philadelphia, and afterwards at Hagerstown, Maryland. At this place, for many years, he held the office of Postmaster, until his nomination as one of the Judges of Washington county obliged him to resign it, in 1807. The strong integrity, which was so decided a feature of this venerable man's character, displayed itself here; and, from conscientious scruples, growing out of his ignorance of the law, he abandoned the bench. The office of Sheriff engaged him for the next three years, after which he filled the Presidency of the Hagerstown Bank, until the period of his removal to the State of New York. His first purchase<sup>a</sup> had been made in 1800, in connection with three other gentlemen. In 1802, the site of the flourishing and enterprising village of Rochester, then called 'the hundred acre lot,' was purchased by the same company, at the rate of seventeen dollars and fifty cents per acre. To the place, which had thus received his name, after a residence of eight years in Steuben and Ontario counties, Colonel Rochester removed; and which will be, to late posterities, a proud mausoleum for his honored memory.

As a public man, Colonel Rochester's labors were not terminated by his removal to the Western world. He was summoned to act as presidential elector in 1817; in 1822 he was a member of the legislature. Oppressed by age and increased infirmities, much against his own inclination, he held for a few months the Presidency of the Bank of Rochester. Its successful organization per-

mitted him to gratify himself by retiring, and he drew back altogether from active life, to spend his few remaining years in the quiet of his own family.

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#### JAMES MACKINTOSH.

*May 30, 1832.* At his house in Langham Place, in the 67th year of his age, Sir James Mackintosh. The rare combination of moral and intellectual qualities which was found in the character of this distinguished man, entitles him to a more elaborate notice than the limits of a periodical will allow. History, (of which biography is a handmaid,) has been well termed 'philosophy, teaching by examples;' but these examples apply rather to communities, than to individuals, and they operate upon the public mind, and shape the destinies of nations, instead of forming the character of the private citizen. Biography, on the contrary, being a delineation of the peculiar qualities, the personal history of some extraordinary man, addresses itself at once to the individual, and by showing how circumstances affect character, and with what care and unceasing labor superior talents are prepared for active life, conduces more directly to self-examination, and stimulates to the imitation of illustrious examples.

The highly gifted subject of our remarks, (who so beautifully united the philosopher, with the man of the world, the lawyer, with the statesman, and to the accomplishments of the gentleman, added the attainments of the scholar,) has not left behind him such accounts of his early life, as to enable us to trace the first steps of his intellectual progress, or of his youthful discipline for the com-

bats of manhood. He was born in Alldowrie in the county of Inverness, October 24th, 1765, and was educated at the school of Fortulo, and at King's College, Aberdeen, where he formed an intimacy with the Rev. Robert Hall, which terminated only with the death of the former, the year previous to the decease of Sir James.

Having been intended for the profession of medicine, he repaired to Edinburgh, and attended the lectures of Dr Cullen and Professor Black. He became one of the annual presidents of the Royal Medical Society, but the bent of his mind towards general literature and rhetoric, now began to display itself, and he applied himself with more diligence to the study of moral, political, and speculative philosophy, under the immediate influence of Robertson, Smith, Clark and Brown, than to those more immediately connected with the medical profession.

In 1787, he took his degree and shortly after he went to England, in company with the eldest son of Sir Charles Grant. His attention, however, was now strongly attracted towards politics, and in 1789 he published a pamphlet defending the whig side of the Regency question. This pamphlet did not meet with much success, and Mr Mackintosh repaired to the continent, and after spending some time at Leyden, he went to Leige, where he was an eye-witness to the conflict between the Bishop and his subjects at the opening of the French revolution. On his return to England he relinquished his medical title, and in 1792, entered himself of Lincoln's Inn, without influential friends, but confident in the strength of his talents. In 1791, he became known to the world by the pro-

duction of his *Vendicia Galliciæ*, in reply to the strictures of Burke upon the French revolution. The talent displayed in this work, introduced him to the leaders of the whig party, and from that time he became a marked man. Although this publication in some measure vindicated the French nation from the eloquent and overpowering invective of Burke, the author himself could not resist the unfavorable impression caused by the sanguinary excesses of the Jacobin leaders, and after an interview with Burke, and a visit to Beaconsbille, he frankly owned to his friends, that he was partially converted to the arguments of his antagonist.

In 1795, he was called to the bar, and unwilling to lose in unprofitable inactivity that leisure usually allowed in the first years of professional life, he announced his intention in 1798, of delivering a course of lectures on the 'law of nature, and of nations.' Many obstacles were interposed to the execution of this plan, by the violence of party spirit; which was then highly excited, and he was accused of a design to encourage revolutionary principles in England. The publication of the introductory lecture completely refuted this calumny, and not only the leading Whigs, but Mr Pitt himself, spoke of the performance in terms of no measured praise.

The lectures met accordingly with distinguished success, and if Mackintosh had left nothing else, this discourse would have made him eminent with posterity. Mr Mackintosh now began to find employment in his profession, and in 1803, acquired general celebrity by the defence of M. Peltier for a libel against the First Consul of France.



Napoleon, annoyed at the strictures of the press, had caused a complaint through his minister to be made against this person, who conducted a Journal in London, devoted to his opponents.

The English government suffered itself to be so far influenced by this complaint as to institute a prosecution against Peltier for libelling an ally of that country, and Mr Mackintosh was called upon to defend him single handed, against Mr Perceval, who was then Attorney General, and Mr Abbott, afterwards Lord Tenterden. Such an opportunity was never afforded to any advocate to earn distinction at one effort, as was now presented to the young lawyer. The First Consul, after having restored tranquillity and peace to France, was fast advancing to absolute power, by overturning the constitution which he had sworn to support. His jealousy of the press had already succeeded in suppressing political discussion upon the continent, and Mr Mackintosh was well justified in regarding this prosecution, 'as the first of contests, between the greatest power upon earth, and the only press which was still free.' The bright prospects to human freedom held out at the opening of the French revolution — the disappointment of those hopes by the bloodshed and anarchy — the military despotism which was then established in France, all afforded topics which were familiar to the advocate, and of which he eloquently availed himself.

This speech established Mr Mackintosh's fame as an orator of the highest rank, and being translated by Madame de Staël, was circulated through Europe. He was, however, now destined to enter a new sphere, and in a judi-

cial capacity. His discourse on the law of nations, and his defence of Peltier, had so established his reputation, that the government began to regard him as an individual who might be advantageously employed in the public service.

In December 1803, he was accordingly appointed Recorder of Bombay, and was knighted on occasion of his promotion. In this station he showed himself a great master in one of the most important of human sciences — criminal jurisprudence. Like a skilful physician, who when appointed to a hospital, would seek to ascertain what complaints he was most frequently called upon to prescribe for, Sir James Mackintosh endeavored to find out the prevailing crimes of the community, in which he was to administer justice. Among the native East Indians he discovered to his deep regret, that the besetting sin was perjury, a crime that rendered the administration of justice uncertain, by obscuring the light by which she is to be guided, and which is, as he justly described it, 'an attack on religion, and law, in the very point of their union.'

Against this crime he directed his energies; but his zeal, accompanied as it always was with an enlightened philanthropy, sought to cure the evil, by reforming the public mind, and awakening to its enormity the moral sense which had been stupified and deadened by the political and religious institutions of the country.

One of the most striking instances of equanimity and freedom from all personal considerations ever manifested on the bench, was displayed by him during the trial of two native officers, who were convicted of a conspiracy to rob two travellers from Cochin.

There was no doubt of the culprits having designed to murder the travellers ; and expecting to be sentenced to death, they had obtained their knives, and were resolved to sacrifice the judge when sentenced. From the circumstance that the design had been formed under the influence of intoxication, and that there was a strong suspicion that in the temperament of the culprits there was some admixture of insanity, Sir James determined to sentence them to the lightest punishment in his power, and to subject them to supervision after the term of their punishment. At that moment he was informed of their murderous intentions. This, however, did not induce him to alter his judgment, and the next day addressing the criminals he said, 'I was employed in considering the mildest judgment which public duty would allow me to pronounce on you, when I learned from undoubted authority, that your thoughts towards me were not of the same nature. If your murderous project had been executed, I should have been the first British magistrate who ever stained with his blood the bench on which he sat to administer justice. But I could never have died better than in the discharge of my duty. When I accepted the office of a minister of justice, I knew that I ought to despise unpopularity and slander, and even death itself. Thank God I do despise them, and I solemnly assure you, that I feel more compassion for the gloomy and desperate state of mind which could harbor such projects, than resentment for that part of them which was directed against myself. I should consider myself as indelibly disgraced, if a thought of your pro-

jects against me were to influence my judgment.'

After an impressive admonition he sentenced them to twelve months' imprisonment. Sir James sat upon the Indian bench until 1811, when his impaired health induced him to return to England, and he retired from his office with a pension of £12,000, from the East India Company.

As soon as his health would permit, he entered the House of Commons as representative from the county of Narina, in July 1813. In 1818, he was elected for Knaresbough, which he continued to represent until his death.

On all questions of foreign policy and international law, on the alien bill, on the liberty of the press, religious toleration, the slave trade, parliamentary reform, the settlement of Greece and the right of the colonies to self-government, Sir James warmly espoused the side of freedom and justice.

As Chairman of the Committee to whom, upon the death of Sir Samuel Romilly, the reform of the criminal law devolved, his labors were of great importance in awakening a full sense of the necessity of meliorating the sanguinary code of England. In 1820, he introduced six bills, pursuant to a report from this committee of the preceding year. Three of these, however, only were carried through, and in the House of Lords seven of the offences which it was intended to commute were expunged, and only four were suffered to remain.

In 1822 and 1823, Sir James Mackintosh was declared Lord Rector of the University of Glasgow; and in 1830, he was appointed one of the commissioners for India.

As a speaker he had great disadvantages to contend against. His harsh voice, provincial accent, uncouth delivery, unceasing vehemence, and refined and speculative mode of reasoning, effectually disabled him from exciting and controlling an audience like that of the House of Commons. His speeches, however, told of the country. Full of knowledge and bold and masculine reasoning, he fastened the attention of the public, and a speech which was delivered to an exhausted and inattentive House, has the next day convinced an admiring nation.

As a writer, he was perspicuous, laborious, and fastidious — a clear and vigorous thinker, and his style is pure and classical.

When resident in India he commenced a history of England, which was intended as his chief legacy to posterity, but his ill health and public engagements prevented him from completing it. The volumes which were published in Lardner's *Cyclopedia* were originally intended as a prefatory synopsis of that portion of English History, preceding the period of which he was to treat in his more amplified history. This he was not permitted to finish, and his chief literary productions consist of those already mentioned, his published speeches, various articles in the *Monthly and Edinburgh Reviews*, a life of Sir Thomas More and a dissertation of Ethical Science in the *Encyclopedia Britannica*. The companion of the most distinguished men of his own times — as intimately acquainted with the master spirits of antiquity: with a mind replete with ancient lore and modern science: equally conversant with philosophy, history, politics and personal narrative: eloquent with-

out being pompous: learned without pedantry: gay without affectation, there were few men so well fitted for colloquial intercourse; and great as was his loss to the public, it was still more severely and deeply felt by those who knew him in private society.

Sir James Mackintosh was twice married — in 1789 to Miss Stuart, sister to Charles Stuart; and in 1797, to Miss Allen of Pembroke-shire.

He had three daughters by his first wife, the two eldest of whom died before him, and two daughters and one son by his second wife.

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GEN. THOMAS SUMPTER.

*June 1, 1832.* — At his residence, South-Mount, South-Carolina, Gen. Thomas Sumpter, aged 97.

Gen. Sumpter was a native of Virginia. Early in life he came to South Carolina, and settled in the upper country, which at that time was much harassed by the hostility of the Indians. It would seem that he then commenced his career of valor and usefulness; for we find that at the close of the Cherokee war, he accompanied Oconostotah, or 'the Emperor,' to England; it being common at that time to induce the Indian Chiefs to visit the mother country, for the purpose of confirming their friendship to the colonists. On returning with Oconostotah to his home, in 1763, General, then Mr Sumpter, found, among the Indians, one Baron des Johnes, a French Canadian, who spoke seven of the Indian languages, and whom he suspected of being an incendiary, sent to excite the tribes to hostility against their white neighbors.



Sumpter, with his characteristic resolution, arrested this individual, taking him single handed, in spite of the opposition of the Indians, and, at much personal risk, carrying him prisoner to Fort Prince George, on the Kehowee. Des Johnes was afterwards sent to Charleston, where he was examined, and though his guilt was not positively proved, it was deemed expedient to send him to England.

From Gen. Sumpter's letter to the State Rights Association in February last, we learn that he was in Charleston during the high excitement preceding the war of the Revolution, probably in 1774 and 1775, a time to which the letter reverts with great satisfaction, as the period when he enjoyed, with the old Whig party of Carolina, an interchange of the same sentiments which animate the Nullifiers of the present day.

We next meet with the name of Sumpter in 1780. He had been previously a colonel of one of the continental regiments, and when in that year the British had overrun the State, he would not remain to submit, but retired with other determined patriots into North Carolina. During his absence his house was burned, and his family turned out of doors by the British. The little band of exiles in North Carolina chose him their leader, and at their head he returned to face the victorious enemy. When this gallant incursion was made, the people of the State had for the most part abandoned the idea of resistance, and military operations had been suspended for nearly two months. His followers were in a great measure unfurnished with food, clothing and ammunition. Farming utensils were worked

up by common blacksmiths to supply them with arms. Household pewter was melted into bullets; and they sometimes engaged with not three rounds to a man. With a volunteer force thus equipped, he commenced hostilities, and broke the quiet of subjection into which Carolina seemed to be sinking.

On the 12th July, 1780, he attacked a British detachment on the Catawba, supported by a considerable force of Tories—and totally routed and dispersed the whole force, killing Capt. Hack, who commanded the British, and Col. Ferguson who commanded the Tories. Animated by this success, the inhabitants flocked to his standard; and being reinforced to the number of six hundred men, he made a spirited attack on the British post at Rocky Mount, but was repulsed. Marching immediately in quest of other detachments of the enemy, in eight days after, he attacked the post of the Hanging Rock, where he annihilated the Prince of Wales's Regiment, and put to flight a large body of Tories from North Carolina. When Sumpter's men went into this battle, not one of them had more than ten bullets, and towards the close of the fight, the arms and ammunition of the fallen British and Tories were used by the Americans.

While the American army, under the unfortunate Gates, were approaching Camden, Col. Sumpter was on the west bank of the Wateree, augmenting his forces and indulging the hope of intercepting the British on their way to Charleston, as their retreat or defeat was confidently expected. He here formed a plan for reducing a British redoubt at Wateree

Ferry, and intercepting a convoy on the road from Charleston to Camden, in both of which objects he fully succeeded — and the news of his success reached Gates, while that officer was retreating after his defeat. Hearing of the disaster at Camden, Sumpter retreated with his prisoners and spoils up the Wateree, to Fishing Creek, where he was overtaken by Tarleton on the 18th. The Americans had been four days without provision or sleep, and their videttes being exhausted, suffered them to be surprised; the consequence was their total rout and dispersion. The loss which Sumpter sustained was, however, soon repaired, for in *three days* he rallied his troops, and was again at the head of a respectable force. At the head of his little band, augmented from time to time by reinforcements of volunteers, he kept the field unsupported; while, for three months, there was no regular or continental army in the State. He shifted his position frequently in the vicinity of Broad, Enoree and Tiger Rivers, maintaining a continual skirmishing with the enemy, beating up their quarters, cutting off their supplies, and harassing them by incessant incursions and alarms.

On the 12th of November he was attacked at Broad River by a corps of British infantry and dragoons under Major Weyms. He utterly defeated them and took their commander prisoner. On the 20th November, he was attacked at Black Stocks, on Tiger River, by Tarleton, whom he repulsed after a severe and obstinate action. The loss of the Americans was trifling compared to that of the British; but General Sumpter received a wound in the

shoulder, that for several months interrupted his gallant career. He was placed we are told in a raw bullock's hide, suspended between two horses, and thus carried by a guard of his men to the mountains.

On the 13th of January, 1781, the old Congress adopted a resolution of thanks to General Sumpter for his eminent services.

After the battles fought by Gen. Greene, and the departure of Cornwallis for Virginia, Gen. Sumpter, who had just recovered from his wound, collected another force, and early in February, 1781, crossed the Congaree and destroyed the magazines of Fort Granby. On the advance of Lord Rawdon from Camden, Sumpter retreated — and immediately menaced another British post. Two days after, he defeated an escort of the enemy, and captured the wagons and stores which they were conveying from Charleston to Camden. He next, with two hundred and fifty horsemen, swam across the Santee, and advanced on Fort Watson, but retreated on the approach of Lord Rawdon to its relief. On his return to Black River he was attacked by Major Fraser with a very large force. Fraser lost twenty men and retreated. Having thus cheered the spirits of the people of the centre of the State, he retired to the borders of North Carolina. In March, 1781, he raised three regiments of regulars. His previous enterprises had all been executed by militia. He subsequently took part in the military movements in the lower country, until the close of the war, and co-operating with Marion, struck many successful blows at the British, and was distinguished in the several actions

which were fought between Orangeburgh and Charleston.

After the peace, Gen. Sumpter was a distinguished member of the State Convention, in which he voted with those who opposed the adoption of the Federal Constitution, on the ground that the States were not sufficiently shielded by it against federal usurpation. He was afterwards selected one of the five members from that State in the House of Representatives of the first Congress, under the Constitution, and continued to represent South-Carolina in the national councils until 1808. He took an active part with the other members from this State, in denouncing a petition for the abolition of slavery, which was presented from the Quakers of Pennsylvania.

For many years the veteran patriot has lived in retirement amid the respect and affection of his neighbors. He retained his fine spirit unbroken to the end, and at the age of nearly a hundred years exhibited the cheerfulness and fire of youth. But a few weeks before his death, he vaulted into the saddle with the activity of a young man, and the faculties of the mind retained their vigor as well as those of the body.

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#### SAMUEL WARD.

*August 13th, 1832.*—At New York, Samuel Ward, a distinguished officer in the revolutionary war, in the 76th year of his age.

Col. Ward was born at Westerly, R. Island, on the 17th of Nov. 1756, the son of Samuel Ward, Governor of that State, and Phœbe Green, a sister of Gen. Greene.

His father, and indeed all his family connexions, were ardent

supporters of the revolution, and, from the first collision between G. Britain and her colonies, advocates of the independence of the United States, an event which his father predicted as inevitable, as early as 1766.

Col. Ward was educated at Brown University in Providence, and hostilities commencing about the time he left College, he joined the Rhode Island army of observation, of which he was appointed a captain on the 8th of May, 1775—the army being raised in the name of his majesty George III, for the preservation of His Majesty's loyal and faithful subjects of the colony of Rhode Island.' His commission (which was given by his uncle, Henry Ward, the Secretary of R. Island, the Governor and Lieut. Gov. being Tories) authorised him 'in case of an invasion or assault of a common enemy to infest or disturb this or any other of his Majesty's colonies in America, to alarm and gather together the company under your command,' 'and therewith to the utmost of your skill and ability, you are to resist, expel, kill and destroy them in order to preserve the interest of his majesty and his good subjects in these parts.'

Like their brethren the covenanters —

'Who swore at first to fight  
For the King's safety and his right,  
And after marched to find him out  
And charged him home with horse and foot,'

the Whigs of the revolution found no inconsistency in availing themselves of the authority of the King as the constitutional head of the government, to preserve and maintain their constitutional rights. In the month of May, 1775, the father and son both left their home—the one to repre-



sent the colony in the continental Congress, and the other to defend her liberties in the field. He joined the army besieging Boston — burning with a vehement desire to vindicate the rights of the colonies. In one of his letters to his family, dated Prospect Hill, July 30, 1775, addressing his younger brothers, he says, ‘as you grow in stature, pray take pains to be manly : remember that you all may have an opportunity of standing forth to fight the battles of your country. This afternoon we expected to have had an engagement. We may have one to night. The regulars are now landing in Charlestown from Boston. I thank God we are ready to meet them.’

With such an ardent spirit, young Ward was not likely to hesitate in embracing an opportunity of advancing the cause he had espoused ; nor was it long, before one was presented. In September 1775, Gen. Arnold, then one of the most enterprising of America’s sons (but afterwards ‘quantum mutatus ab illo Hectore !’) was invested with the command of 1100 volunteers, destined to join Montgomery at Quebec by way of the Kennebec river. The country was then an unexplored wilderness, and they were obliged to transport their provisions and munitions for the whole distance, where they did not follow the river, without the aid of animals. Even when ascending the river, the volunteers were compelled to drag the boats over the waterfalls and portages, and after leaving the river the provisions and munitions packed in small kegs, were placed on the backs of the soldiers and carried more than 300 miles, through thick and pathless woods, and

over lofty mountains and deep morasses. So great were the difficulties, that a part of the detachment actually abandoned the expedition and returned to Cambridge to avoid starvation. Capt. Ward and his company persevered, and after unheard of privations arrived before Quebec in Nov. 1775. A letter from him on the 26th of that month to his family, dated at Point aux Tumblers, gives a vivid account of the hardships of the expedition.

‘It would take too much time to tell you what we have undergone ; however as a summary of the whole — We have gone up one of the most rapid rivers in the world, where the water was so shoal, that, moderately speaking, we have waded 100 miles. We were 30 days in a wilderness, that none but savages ever attempted to pass. We marched 100 miles upon short three days provisions — waded over three rapid rivers — marched through snow, and ice *barefoot* — passed over the St Lawrence, where it was guarded by the enemy’s frigates, and are now about twenty four miles from the city to recruit our worn out natures. Gen. Montgomery intends to join us immediately, so that we have a winter’s campaign before us, but I trust we shall have the glory of taking Quebec !’

That hope unhappily was not realized. The attack upon that city failed, and Capt. Ward, with the principal part of his company, having penetrated under the command of Arnold, through the first barrier, was surrounded by a superior force and compelled to surrender. While in captivity he received the following letter from his father, which, from the excellence of its

sentiments, and as fully illustrating the principles of the leading patriots of that time, we insert at length.

*Philadelphia, Jan. 21st. 1776.*

MY DEAR SON ; — I most devoutly thank God, that you are alive, in good health, and have behaved well. You have now a new scene of action — to behave well as a prisoner. You have been taught from your infancy the love of God, of all mankind, and of your country : in a due discharge of these various duties of life, consist true honor, religion and virtue. I hope no situation or trial, however severe, will tempt you to violate these sound, these immutable laws of God and nature. You will now have time for reflection. Improve it well, examine your own heart. Eradicate, as much as human frailty admits, the seeds of vice and folly. Correct your temper. Expand the benevolent feelings of your soul, and impress and establish the noble principles of private and public virtue so deeply in it, that your whole life may be directed by them. Next to these great and essential duties, improve your mind by the best authors you can borrow. Learn the French language, and be continually acquiring, as far as your situation admits, every useful accomplishment. Shun every species of debauchery and vice, as certain and inevitable ruin here and hereafter. There is one vice, which, though often to be met with in polite company, I cannot but consider as unworthy of the gentleman as well as the Christian, I mean swearing. Avoid it at all times.

All ranks of people here have the highest sense of the great bravery and merit of Col. Arnold,

and all his officers and men. — Though prisoners they have acquired immortal honor. Proper attention will be paid to them. In the mean time behave, my dear son, with great circumspection, prudence and firmness. Enter into no engagements inconsistent with your duty to your country. Such as you may make, keep inviolate with the strictest honor. Besides endeavoring to make yourself as easy and happy as possible in your present situation, you will pay the greatest attention, as far as your little power may admit, to the comfort and welfare of all your fellow prisoners, and of those lately under your immediate command, especially.

We have a great number of prisoners in our possession, who are treated with the greatest humanity and kindness, and with pleasure I hear that Col. Arnold's detachment is treated in the same humane manner. The mischiefs of war are sufficiently great under the most civilized regulations. What a savage he must be, who would heighten them by unnecessary severity and rigor. I hope that humanity to the unfortunate will be the distinguishing characteristic of the successful on either side of this unhappy contest. Write to me often, and may infinite wisdom and goodness preserve and prosper my dear son.

Your very affectionate father,  
SAM'L. WARD.

The son and his excellent guide and adviser never met again in this life — the latter dying of the small pox at Philadelphia, while attending Congress on the 25th of March following, and before the declaration of that independence for which he had so earnestly labored.

Capt. Ward was exchanged in

1776, and on the first of January, 1777, was commissioned as Major in Col. Christopher Green's regiment of the Rhode Island line—a worthy compeer of his brother, Gen. Green. *Scipiados duo fulmina belli.*

In that capacity, he was present and co-operated in the gallant defence of the fort at Red Bank, when it was unsuccessfully assailed by the Hessians under Count Donop, October 22, 1777.

The next year he was detached for the defence of his native State under the command of Generals Green, Lafayette and Sullivan. In the celebrated retreat from Rhode Island, he commanded a regiment, and on the 12th of April, 1779, he was commissioned Lieut. Col. of the 1st Rhode Island Regt. During that and the following year he was in Washington's army, in New Jersey, and participated in the toil and glory of that service. At the termination of the war, Col. Ward returned to the peaceful pursuits of a citizen, with the same alacrity that he had manifested, when his country's voice had called him to arms. He now commenced business as a merchant, and manifested as much enterprise in his new profession as he had in his previous career. In the spring of 1783, he made a voyage from Providence to Canton, and was

among the first to display 'the republican flag' in the China seas. Upon his return to the United States, he established himself at New York, as a merchant, and by his probity, frugality and industry, became successful in his business. In the course of his mercantile career he visited Europe, and was at Paris when Louis XVI was beheaded. After his return from Europe, Col. Ward established himself on a farm at East Greenwich, R. I. where he lived to see his children educated to usefulness and establish themselves in the business of active life. In 1817, with a view of being nearer his children, several of whom had embarked in business at New York, he removed from his native State to Jamaica, on Long Island. Here and in the city of New York, he resided in the midst of his family and friends, by whom he was admired and beloved for his manifold virtues, until the termination of his long and useful career. When death approached, it found him ready. A life nobly spent in the discharge of every public and private duty, had prepared him to relinquish his Maker's gift without murmuring, and he descended to the grave,

'Like one who wraps the drapery of his  
couch  
About him, and lies down to pleasant  
dreams'



















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